Development guide for smaller housing associations
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Introduction: Development issues for smaller housing associations

The National Housing Federation publishes a guide to development for housing associations, called Developing Affordable Housing. This publication draws on that guide and is written specifically for smaller housing associations.

If further detail is required on any of the topics included here, please refer to the original guide. Other resources are also signposted elsewhere in this guide, for further information.

When smaller housing associations undertake residential development schemes they face different risks and pressures from larger housing associations. This stems primarily from:

- Development schemes being more “occasional” than for larger housing associations, who will often do repeat schemes over many years, allowing the opportunity to benefit from developing standardised processes and requirements. Smaller housing associations will often have to almost reinvent their processes and requirements each time they do a new scheme.

- Not always having staff dedicated to the work and who therefore become familiar with details of the process and how to manage the risks effectively.

- The capital expenditure of the project sometimes representing a greater proportion of the organisation’s financial capacity than for the programmes of larger housing associations.

- There being less experience and confidence at board level, making the process of commitment and approval slower, and requiring more reviews.

- Smaller housing associations often being specialist, and therefore having projects which are more complex both in terms of their housing products, and the number and range of key stakeholders.

For all these reasons, developing new schemes is likely to be proportionately more risky for smaller housing associations than for larger ones, placing greater pressure on those trying to manage the project. This is often the chief executive of the organisation, trying to fit in this work alongside all the other responsibilities. The board, also, being less familiar with the norms and risks of housing development, can also struggle to exercise appropriate governance.

The job title of the person responsible for delivering the new housing scheme for the smaller housing association may be the chief executive, a director or someone else. Whatever their job title, however, they can generically be described as the client representative for the scheme, and that is the term used in this guide.
Section 1: The development environment

Types of schemes

Housing associations undertake a range of different types of housing schemes, such as redeveloping their garages into new homes, Section 106 schemes, new-build schemes on land purchased by the housing association, or buying existing street property.

All of these different types of schemes may have different types of tenure, and/or be designed for different types of household. However, as this guide focuses on the development process, it is the differences in how they are developed that is most relevant.

In property development terms, the main variables between different scheme types can be summarised as:

- Is the scheme on land already owned by the housing association, or does land/property need to be bought in?

- Does the housing association have control over who its key suppliers are to be for the project (the design team and the construction team), or not?

- Does the housing association have control over the design process right from the start, or is it purchasing something already part/fully designed, and may be partly/fully built, by others?

- Are there are relatively few key stakeholders, or a lot of influential stakeholders?

To be reasonably comprehensive, this guide addresses the widest range of issues that the housing association and client representative will face. It is therefore written primarily from the perspective of a land-led scheme. Therefore, if undertaking different types of projects – such as Section 106 off-plan purchases, or package deals – the reader can reference the topics that are relevant, and ignore those that do not apply to them.

Just as with the National Housing Federation’s main guide to developing new schemes, Developing Affordable Housing, this guide uses HATC’s DevProMM (Development Project Management Method) to illustrate the process. On the next page is the overview process map from DevProMM for land-led schemes, and can be referred to by readers, particularly when using Section 3 of this guide. It is reproduced at the start of Section 3 as well.
The section below describes the main scheme categories used by housing associations.

**Scheme types**

**Land-led schemes**

A land-led scheme is one where the housing association:

- Already owns the land/building, (sometimes known as ‘works only’ schemes), or
- Is independently purchasing the land/building (sometimes known as ‘acquisition and works’ schemes).

This means the housing associations can choose who will be their consultants and building contractor. The housing association has complete control over the design and standard of the finished products (within the housing association’s financial and time constraints, of course).

So the housing association controls:

- what will be built
- when it will be done
- who will do it.
Package deal
A package deal is where land is brought to the housing association by a contractor who owns (or controls) it. The usual arrangement is for the housing association to negotiate a purchase price and a building contract with them, and then simultaneously enter into the land purchase and building contract with that company.

They may be two separate (but cross-referred) contracts, with the building contract being a Joint Contracts Tribunal (JCT) or other standard contract. Or both the purchase obligations and the construction obligations may be set out in a bespoke document called a development agreement, and which might be prepared by either the housing association or the builder.

In a package deal, the builder will typically have obtained (at least) an outline planning permission, so the design work is usually limited to obtaining a detailed planning permission that meets the housing association’s requirements, and negotiations over the employer’s requirements. The housing association retains considerable control over design and construction standards. So the housing association controls:

- what will be built
- when it will be done
- but not who will do it

Off-plan and off-the-shelf (including Section 106)
An off-plan purchase is where the housing association is offered some fully designed and specified dwellings with no – or very little – choice over design/components or who will do the work. Essentially a finished product, there may be some choices over kitchen and bathroom fittings and some finishes such as paint colour or tile choice, whether gardens are turfed or not, whether burglar alarms are fitted etc.

Not only do off-plan purchases offer little or no control over the design/specification, they usually aren’t available for occupation for several months (i.e. while they are being built).

Most Section 106 schemes are off-plan purchases. So the housing association has no control over:

- when it will be done
- who will do it.
- and very little over what will be built.

An off-the-shelf purchase is when the housing association buys some completed dwellings that are ready to let/sell. These may be new builds that have just completed, a refurbishment or rehabilitation of older buildings into new dwellings, or the purchase of second-hand street property.

As these are exclusively a simple purchase of the finished product, the housing association obviously has no control over what was built, when it was built or who built it. That is all in the past. The only question is whether the housing association wants to buy it now.

Section 106 schemes
Section 106 schemes offer varying degrees of control over design and components. They can range from negotiating a building contract for the identified plots with the developer, using the standard set of employer’s requirements, like a package deal (this is rare) to an off-plan purchase (most common) or even an off-the-shelf arrangement (not common).

Most Section 106 schemes involve the housebuilder holding a tender, seeking best offers from a number of housing associations competing to ‘win’ the opportunity for a bulk off-plan purchase of dwellings that have been fully designed and specified by the private housebuilder, with a limited menu of choices on finishes and optional-extra components. As noted above, off-plan purchases offer no significant choices over what is built, and none over who will do it or when it will be done.
Governance

New development schemes can represent considerable risk to a smaller housing association’s financial position and it is the responsibility of the board to ensure that the organisation:

- Does not take on more risk than it can deal with.
- Adequately manages the risk that it does take on.

Larger housing associations will have a development strategy (see below). Smaller housing associations that expect to undertake a number of projects over the next three to five years should also consider creating a broad plan of what type of schemes they want where, how they will be procured etc. For those smaller housing associations that will undertake a new development scheme once every five or 10 years, this is less appropriate.

Even for occasional or one-off schemes, it is important that the client representative develops a business case (see below) which is put to the board for informed decision-making prior to entering into any significant commitments. This should be accompanied by a carefully developed risk management plan, identifying how the key risks will be controlled and managed.

As well as a risk plan for each project, the board must also monitor the aggregate risk exposure faced from all the projects being undertaken, to ensure that it doesn’t exceed the housing association’s risk appetite or (more importantly) capacity.

Development strategy

A development strategy describes how the housing association’s growth ambitions fit within the organisation’s overall business vision and values, and so will set out the why, what, where, how, how much, when and who of the development programme. It is crucial such a strategy is carefully prepared so as to be realistic, to avoid compromises and disappointment when schemes are completed.

The strategy should identify:

- **Why** schemes are to be developed – the programme objectives.
- **What** type of homes (dwelling mixes and tenure mixes) are required, and preferred scheme sizes.
- **Where** – the preferred localities and the areas where development isn’t to be undertaken.
- **How** the schemes will be developed – see below.
- **How many** homes are to be in the programme – based on the availability of grant/other subsidy and the housing association’s ability to borrow and/or self-fund the programme, and anticipated average dwelling costs.
- **When** schemes should be delivered (which may be related to the timing of taking out loan agreements and the rate of drawing them down).
- **Who** will do the work (see below).

The “how” part would cover the preferred procurement arrangements – whether the preference is to develop land-led schemes, or to enter into package deals or to purchase already-designed dwellings off-plan (such as in Section 106 agreements). All of these different procurement approaches have different risks and benefits, and so the board should decide on their preferred route or mixture of routes.

Finally, the strategy should also include a section on “who”. This would cover the expected personnel to be used to do the work, and their different roles. This is partly dependent upon the preferred procurement route (if buying dwellings off plan, there is no need to hire a design team, for example). Options would usually include:

- Commissioning the development team in a larger housing association for them to provide a one-stop shop service to the smaller housing association (typically consisting of project management services, grant administration services and hiring and managing the technical team).
• Commissioning a project manager (freelance or part of a practice) to manage the project and help with the selection, appointment and management of the technical team. This role may or may not include grant administration services. If not, the smaller housing association may appoint a grant administration specialist separately, or undertake that task itself.

• A mixture of the above two in some shape or form.

This question of “who does the project management work” is an important point, as a smaller housing association may have the ambition of finding and delivering schemes themselves, but may find that the call on staff time is significantly greater than expected.

This can lead to risks to the operational service, and reputational damage. Again, the solution is to carefully research and consider how much time can realistically be spent on development schemes by in-house staff.

Financing and funding the schemes

Few housing associations will have enough cash or other liquid assets to pay the capital costs of acquiring or developing new housing schemes. These investments are usually mostly funded by debt, with grant contributing towards the capital cost.

How much additional debt can be taken on will need to be carefully assessed in the organisational business plan and fed into the development strategy. This will be a balance between understandable ambition and financial prudence.

For rented housing, the debt is likely to be repaid only after several decades. The same may be true of shared ownership schemes, although if the residents staircase out quite quickly to own their home outright, the debt will be paid off quickly also.

The board should set a minimum level of acceptable financial return as a way of choosing whether or not any development opportunity is seen as acceptable (in financial terms). This is explained in a little more detail in the Project Financial Viability section below.

As social or affordable rented schemes may well be losing money each year for the first 10-15 years or so, and only breaking even after 30+ years, can the housing association absorb those revenue losses and stay solvent? It is important that careful thought is given to the interrelationship between the financial hurdles set for new schemes, the number of dwellings to be developed, and the housing association’s short, medium and long-term financial capacity. This is an important part of the development strategy.

See Financing and Funding Schemes section in Developing Affordable Housing.

Valuation

When negotiating to buy land or property, it is important to know what is the “going rate”, so as not to inadvertently pay more than is necessary. Valuation advice should therefore be sought whenever buying property.

A valuation is a formal opinion provided by a qualified valuer about how much the property in question would sell for in the open market under the assumptions. There are a number of standard sets of assumptions that form the basis for a valuation.

One example is the assumptions used as the basis for market value. A different set of assumptions are used for a valuation on an existing use basis. It is important to check whether the assumptions underpinning a (for example) market value valuation actually hold true for the property in question. If they do not, the valuation will be wrong, possibly very significantly wrong.

Valuations are inexact. A reasonable margin of error for a valuation of an existing dwelling (where there are many similar comparables) is +/-5%. The margin of error when buying land (where the valuation uses the residual method) will often be +/- 30-50%.

Valuation reports should be carefully checked to ensure that the valuation has been prepared in the light of all the information available about the property, both its physical condition, its legal condition and its planning status. This is information that will be gained during the feasibility study and so the valuation needs to be continually updated through that process. This usually means that the initially-agreed price will need to be renegotiated once the feasibility study has been completed.
**Project financial viability**

This topic is a short introduction to financial viability matters. A more thorough description can be obtained from the National Housing Federation’s publication *Understanding Development Appraisal*.

A financial viability appraisal is used to identify which projects meet or exceed the level of investment return required by the housing association.

It is a key part of deciding:

- Whether to authorise or approve the business case for the scheme in the early days of the scheme’s life.
- Whether to continue supporting the scheme at subsequent reviews, later in the scheme’s life.

The output of an appraisal is obviously only as reliable as the inputs, which are the estimates of cost and time. Inevitably, estimates made in the early stages of the project life are much less certain than those made later.

It is very important that inputs on capital costs, revenue costs, development timescales and future income (rent and sales receipts) are based on sound, prudent professional advice, and not on hope and optimism in order to “make the scheme work”.

In the heat of negotiation or bidding for land, it can be very tempting to change the inputs to produce the required output. This can have very significant adverse financial implications for the organisation in future months or years.

Even after extensive feasibility study investigations, estimates of cost and time will only be accurate to within +/- 5-10%. Financial viability appraisal results need to be interpreted in that light by decision-makers.

The threshold of financial viability will be set by each housing association, and will reflect their ambitions for a large or small development programme, their financial capacity and their risk appetite.

Thresholds can be set by using one/some of the range of statistics such as profit/loss, payback period, net present value (NPV), internal rate of return (IRR), return on capital employed (ROCE) or others.

It is important that decisions about key parameters within the appraisal (such as appraisal period, discount rate, interest rates, inflation rates for rent, equity and labour, management, maintenance and major repair assumptions etc) are set by the board, and are not subject to amendment by client representatives on a scheme-by-scheme basis.

**The players – roles and responsibilities**

The client representative will need to appoint people to provide technical support in developing the scheme. For land-led schemes, a full technical team will be needed (designers, builders, solicitors, valuers, clerks of works and possibly other specialists). If purchasing already designed housing off-plan, there will be no need to appoint designers or builders (as that will already have been done by the housebuilder selling the dwellings) but the client representative would still need a solicitor, valuer and (possibly) clerk of works.

This section outlines the roles of the key players in the technical team that the client representative may need to employ:

- **Architect:** produce drawings and other design information (schedules, written descriptions of work etc), in progressively greater levels of detail — from very broad outline stage designs through to enough information that the builder’s on-site team have a set of instructions of what materials and components to buy, and how to assemble them together.

- **Engineer:** like architects, they produce design information but focus on specialist areas such as building structures, heating systems, lift systems, ventilation systems etc. Their role is the same as architects, eventually to produce information that the construction team can use on-site.
• **Design coordinator:** (this would normally be the architect, if asked to undertake this role). If there is more than one person producing design information (such as an engineer as well as an architect) someone needs to ensure that the designs ‘mesh’ and don’t ‘clash’. This is a simple, but crucial role.

• **Cost consultant:** professionally a quantity surveyor, the cost consultant estimates what it will cost to build the architectural and engineering designs produced by the design team. The quantity surveyor’s role also includes preparing tender documents and managing the tender process, and administering the building contract on behalf of their client. A quantity surveyor works on both ‘design and build’ and ‘traditional’ types of contract [see below].

• **Employer’s agent:** the term employer’s agent applies to the JCT Design and Build7 contract only. Employer’s agents normally come from the quantity surveyor professional stable, and their role is the same as what the quantity surveyor undertakes for the client under a traditional contract – cost advice, tender preparation and management and contract administration. However, there is often (formally or informally) also some project management responsibility, unless the client has appointed a project manager to the scheme.

• **Principal designer:** this is a health and safety role, not a designing role (despite the role name), and is a requirement on clients under the Construction Design Management Regulations. Their job is to assess risks created by the designs to the construction workforce, the building occupiers and the building maintainers over the construction phase and the operational life of the buildings. They prepare the pre-construction health and safety plan for the client.

• **Clerk of works:** the quality control inspector, checking if the builders are constructing in accordance with the requirements of the client’s contract with them. Their role is to spot-check by dropping in on-site at random times. Often ex-trades operatives/ supervisors themselves, they are usually poachers-turned-gamekeepers who know the common shortcuts, so know what to look out for. An extremely useful appointment.

• **Solicitor:** (for conveyancing) undertakes the checks on various databases to gather information about the legal condition of the property being bought – who owns it, what type of ownership they have, and what restrictions or obligations apply. They summarise this research in a document called the report on title. They will also help turn the agreed purchase heads of terms into the sale/purchase contract, highlighting risks to the client. They will then manage the process of buying the property and ensuring ownership is registered with the Land Registry.

• **Valuer:** provides advice on the value of property being bought, sold or rented.

• **Geotechnical consultant:** undertakes investigations into the ground the client is thinking of buying, to establish its physical condition (what it’s made from, and how solid it is), as well as historic uses [to indicate if it might be contaminated], and undertake a detailed survey of the ground to establish levels and slopes.

As well as the technical team, the client representative will need to employ someone to manage them and the project.

• **Project manager:** a project manager is responsible for undertaking all of the management work (as opposed to the technical work) in delivering the scheme. This involves understanding what is required, planning how the work is to be done, recruiting specialists to do the technical work and managing them, managing internal and external stakeholders, managing risk, managing change, reporting on status, bringing the newly built housing smoothly into operations, and closing the project down.

If the project manager is capable and experienced, the employer’s agent will act as their project assistant. If the project manager is unqualified and/or inexperienced, the employer’s agent may find (to their surprise) that they are being expected to shoulder most of the management of the project, as well as their main duties. This is a lot more work, and unless they have priced that work [because they were asked to do it], they may not then have resources to do it, and so the project can be left rudderless.
All these consultants (and possibly some others) may need to be employed on a land-led scheme. At the other end of the spectrum, a scheme which is an off-plan purchase, or purchase of completed dwellings will need very few of them.

All schemes will need a project manager if they are to run successfully.

**Being the client**
The key responsibilities of being a good client are:

- Knowing what you want (not making it up as you go along).

- Taking care to recruit the right people (the technical team – your project manager, architect, employer’s agent, engineer, solicitor, builder etc.) who are technically competent but also focused on helping you get what you want, and will not try to impose their own ideas.

- Brief the team fully and clearly on what you want (and anything that you specifically don’t want).

- Allow the team enough time to do their work properly (rushed work is always second or third rate).

- Take decisions quickly, after ensuring (through asking as many simple questions as are needed) that you understand the implications of options and are taking a decision that is fully informed.

- Deal with change promptly.

- Pay the team on time (make a virtue of it).

- Review and assess your consultants’ performance constantly, promptly giving plaudits or criticism, as deserved.

Always remember that as the client, you are paying for the entire project, and it is your project team’s job to give you what you have asked for. It is also your responsibility to make sure that what you have asked for is what you actually want – easier said than done.

### Building permissions – planning permission and building control

The two main building permissions needed by law for all new construction schemes are:

- Planning permission

- Building control (compliance with building regulations)

If the housing association only has a leasehold interest in the property, it may need permission to do any building work from the freeholder.

Depending upon the nature of the work, other permissions/consents may be needed for:

- work to listed buildings (listed building consent)

- demolition (known as Section 80 consents)

- working on or near a party wall (from the neighbour)

- working near a watercourse (from the Environment Agency)

- closing (temporarily or permanently) or diverting a right-of-way (from the local authority’s highway team, known as Sections 247 and 248 consents)

#### Planning permission

The planning system considers how land should be used, and looks in detail at seven aspects of the applicant’s proposals, as shown in the box on the next page.

Permission is needed if the work consists of development, a significant change of use of the land or if an existing dwelling is being subdivided. In planning law, development means that there is a significant change to the external appearance of what is currently on the land.

It should be noted that where the work is the repair and improvement of existing property, and there is no significant change to the external appearance of the building, planning permission is not needed.
Minor significant changes to the external appearance of buildings or land needs permission, but rather than clog up the application system with such changes, central government has given planning permission in advance for such changes. These defined small-scale changes are known as permitted development.

If the proposed development goes beyond the small-scale changes, a specific permission is needed – applying for a planning permission.

The local planning authority expresses its ambitions for how land in its area is to change and be developed over the next 5-15 years by publishing a number of planning policies. Applications for land development are reviewed against these policies, and if the proposal is broadly in line with policy, it will get permission. If it is not sufficiently policy-compliant, it will be refused. Different elements of the design will be reviewed for compliance with policy. These different elements are listed on the right as the ‘seven planning matters’.

It is crucial to understand that a planning application is a negotiation between the applicant and the planners. The planners may ask for all sorts of changes to the design and it is for the housing association to decide whether to agree (in the hope of getting a quicker permission) or to resist and argue that the scheme should be approved anyway. If the scheme is rejected the applicant can appeal to central government, and ask for a planning inspector to re-run the assessment and decide whether to support the refusal, or grant permission.

Construction work cannot begin until all seven planning matters are approved (with the exception of landscaping). Approval for all of these six/seven planning matters may be obtained in one application (called a full application), or can be assembled in several applications (an outline application followed by one or more reserved matters applications).

Planning permissions come with conditions, some of which may require the applicant to do a lot of work before they can start construction – sometimes delaying the start by many months. The risk of this should be reflected when preparing the project schedule. Other conditions may need to be met before completed dwellings can be occupied. There may be a condition that the applicant has to negotiate some community benefits with the planners, which are then secured by both parties signing a contract (called a Section 106 agreement).

Most planning conditions will need to be signed off by the planners before practical completion, confirming that they are happy that the conditions have been complied with. This is very important, as any under discharge conditions will blemish the title of the property, meaning that its value as security for future loans may be significantly diminished.

The seven planning matters

1. Use
2. Layout
3. Amount
4. Scale
5. Access
6. Appearance
7. Landscaping
Building control

The building regulations are a nationally-set group of minimum standards about sixteen aspects of a building’s performance in use that have to be met. The standards cover such areas as structural stability, fire safety, drainage, electrical safety, thermal insulation, ventilation, glazing, security and others.

Compliance is assessed by physical inspection and testing of the work on site at key stages to check compliance with the approved designs. The inspection can be carried out by building control inspectors employed by the local council or by approved private companies. For some of the regulations (e.g. relating to glazing in windows), approved trade companies are authorised to self-certify compliance.

It is essential to have evidence of compliance with the building regulations, in the form of building regulations certificates of compliance from tradespeople who have self-certified, and a completion certificate (sometimes known as a final certificate) from the building inspector. Without it, there will be questions about the quality of the work which will significantly affect the value of the property, and/or make it unsellable.

Construction and design management (CDM) regulations

This is less about obtaining a permission/approval and more about fulfilling a legal duty, where failure to do so incurs criminal liability.

The CDM regulations are part of the Health and Safety at Work Act 1974, and are designed to reduce the incidence and severity of injuries arising from construction-related activity. This is generally thought of as being primarily about site safety during the construction phase, but also includes planning to reduce hazards to the users of the building when it is completed.

The regulations place duties on all of the main actors in construction projects, identifying specific roles, including:

- Client (the housing association)
- Principal designer
- Designer
- Principal contractor

The client (the housing association) duties are not onerous, but they need to be met. They cannot be delegated to others. This guide cannot include a full briefing on the roles and duties of these players, but it is important that the housing association understands their obligations under CDM, and receives appropriate training.

Adoption agreements

Most new-build schemes involve constructing shared infrastructure as well as individual dwellings. Examples include estate roads and footpaths, surface water and foul water drainage, streetlights, flood defence systems, areas of open space as well as installing gas, electricity, water and telecoms.

Responsibility for the upkeep of such infrastructure lies with the property owner. However, statutory bodies (such as the local highways authority and local utility companies may be willing to take on the future maintenance and repair liability of the infrastructure. This obviously relieves the property owner (the housing association) of the future costs of maintenance and repair. This process is called adoption.

Understandably, the statutory bodies are only willing to take on long-term responsibility for things that have been well-built. If, therefore, the housing association wants some infrastructure adopted in the future, it will have to build them to adoptable standards.

Getting legal adoption documentation finalised can take a long time, and housing associations are advised to start the process as early as possible, even before construction begins.
Section 2: Project management basics

Introduction

The main technical activities of developing housing (those described in Section 3) will happen in an order – do a feasibility study first, prepare concept designs then developed designs, then get planning permission, then tender, then start construction and so on.

The tasks of managing the project, however, are all done continuously, over the life of the project. These are the activities briefly described in this section.

Smaller housing associations can obtain project management services from a variety of sources (larger housing associations, freelancers and/or private project management or surveying practices. This section outlines the key project management tools and techniques that the client representative should expect to see used by their project manager. The client representative should expect to be involved in the use of such tools and techniques, assisted by their project manager.

Further reading: Association for Project Management’s Project Fundamentals Guide

Project governance – internal approval gateways

Good governance of projects requires the housing association to periodically check whether the project continues to be worthwhile, so that it can (if necessary) cancel a project, and stop sending good money after bad. Such checks are called Gateway reviews, and would normally happen prior to entering into a significant financial or reputational commitment such as deciding if the project has a good business case, buying land, applying for detailed planning permission or entering into a building contract. It is a review of both the project, and how it is being managed. The documentation used should be an updated business case.

As the management of a development project in smaller housing associations is likely to be undertaken by a director or the chief executive, the Gateway review should be undertaken by the board.

There is a template Gateway review document in the appendices.

Describing success – objectives

Before any significant work is put into a project, there should be agreement on what the project is for. This needs to be between the internal stakeholders (the board, the senior officer and maybe others) and is expressed by setting out the project objectives, i.e. what success would look like.

It might sound unnecessary, but it is quite common for different stakeholders to make different assumptions about why the project is being undertaken. When it becomes plain to someone that their assumption has been wrong, disagreements start and the project may have to change direction significantly.

Changes later in the project’s life are much more painful (in terms of time and money). Exactly the same change made after a disagreement very early in the project’s life will have next to no cost. The client representative should therefore try to get an agreed statement of the project objectives signed off by all key stakeholders before any substantial work is undertaken on the project.
Business case

The feasibility study allows the estimates of what work has to be done, how much it will cost and how long it will take to be refined. It also means there is a greater understanding of the likely benefits available, and the risks (uncertainties) around scope, time, cost and benefits.

This allows a reasonably accurate assessment of whether the benefits of doing the project outweigh the time and money to be spent, and the associated risks, or whether they do not. This documented assessment is known as the business case for the project. The assessment may be that there is not a good business case, and therefore the project should be terminated. It may be that the project does have a good business case, and it should be pursued.

The business case should be considered and approved/rejected by the board. It forms the baseline against which updates on project progress/outcomes should be reported.

Project planning

To fail to plan, is to plan to fail.

However, there is often a powerful urge to ‘get on with the project’. Planning what has to be done, how it will be managed, who will do it, when it will happen and how much it will cost can be seen as irksome and unnecessary. This explains why development staff in most medium or larger housing associations don’t properly plan their schemes.

Having a well-prepared plan is, in fact, the difference between a project being controlled (i.e. delivered close to budget and deadline, to the required quality) and one that simply turns out however it turns out.

Where a housing association undertakes repeated projects of a similar nature, planning will be easier as, rather than inventing wheels on every new scheme, previously-prepared existing wheels can be quickly tailored. However, for those smaller housing associations who only undertake projects occasionally, the planning stage can seem daunting. The work should be undertaken by whoever is appointed as project manager for the scheme.

Given that development projects can pose greater risks to smaller housing associations’ balance sheets and income and expenditure accounts than larger housing associations (i.e. are proportionately more risky), it is even more important that such projects are thoughtfully planned before commitments are made.

Scheduling [Gantt chart or project programme]

The simplest form of planning a project is to produce a Gantt chart. This lists what tasks/activities are to be done, the best order in which to do them, who will do them and their planned start and finish dates. A Gantt chart looks like a horizontal bar chart. This technique allows reasonably accurate predictions of project completion date and key milestones along the way.

The common error is to only allow time for the technical work of the project, and not consider how much time the client representative or other in-house staff might have to spend on managing project (for example, communicating with stakeholders) – or to seriously underestimate it. This can lead to delays on the project whilst people are attending to the day job. The schedule should reflect how long it will take for everyone to do their work, not just the technical work by the technical team.

Such charts can be prepared on paper, in a spreadsheet, or using a word processor. However, the tool for the job is a scheduling software program such as Microsoft Project. Just as Excel is designed to make it easy to do calculations, Project is designed to make it easy to produce Gantt charts and (crucially) update them.

When produced in a scheduling package, the software will automatically highlight which tasks are on the critical path, which is essential to know as it is these tasks that determine when the project will finish (and probably when key milestones will occur). Scheduling software will also automatically show the effect on milestones and the completion date of any changes in the start/finish time of any activity/task.
This ability to automatically track actual progress against planned is crucial. Without it, the project manager will not know with any accuracy at all whether they are on schedule, ahead or behind. Without such knowledge, rectification action cannot be taken early, and so has less chance of success, resulting in the project being later than it need otherwise be.

It’s not a crime to be late – but it is a crime not to know we are late, or by how much. Without a tracked Gantt chart, the project manager won’t know. Gantt charts should be updated at least monthly.

There is an example illustration of a schedule on page 28.

Managing risks

Risk is about uncertainty. Planning projects involves making many predictions. Risk management involves considering where the predictions may turn out to be wrong, and (if so) what the effect on the project might be in terms of cost, time, work and benefits. Where the potential effect is noticeable, it allows us to consider whether we should do further work to reduce the uncertainty and/or impact. Such risk mitigation activities are clearly beneficial, but each activity comes at a price. Are they worth it? Which ones should be implemented, and which risks are better off taking, instead of controlling?

For those risks that are to be controlled, the mitigation/control work will need to be put in hand. Depending upon the nature of the risk, the work may need doing now, or it may only need doing if a risk crystallises in the future, and we have to adopt a fall-back position at that point.

All this thinking, and these judgements and actions should be documented in a risk register which will need to be regularly (typically monthly) reviewed and updated.

Scheme approvals should allow some stated ‘tolerance’ around the approved costs, income, timescale and quality, so that the client representative doesn’t have to seek re-approval every time they learn that the scheme will be a day later or cost £10 more than that approved. The level of tolerance is for each housing association’s board to decide, balancing the need for governance control with avoiding micro-managing.

There is a list of typical development risks in the appendices.

Managing stakeholders

Stakeholders are people with an interest in the project. Examples include grant funder, neighbours to the site, board members, internal operations colleagues, local authority housing strategy officer, ward councillor, etc.

They have a huge influence on the project – for good and ill. So they need to be carefully managed, which means identifying them, assessing their level of interest and (crucially) influence, and planning how best to maximise their support and/or minimise their antagonism.

A large part of managing stakeholders is communication-based, so it’s very helpful to have a communications plan for each scheme. This sets out who will get what information when, through which medium, in what format, and whether the communication is expected to be one-way or two-way.

Like managing risk, this is a continuous process throughout the life of the project.
Managing change

Life (and a development project) never runs strictly according to plan – change is inevitable. If change is well managed, the disruption to the project, and the effect on budget and schedule, are minimised.

The project manager should implement a formal change control process which involves requiring requests for change to be in writing, and then evaluated before a decision is taken to accept or reject the proposed change.

This process obviously only applies to change that is requested, as opposed to those changes that are a matter of fact, not optional.
Section 3: The development process

The DevProMM overview process map for land-led schemes

[Diagram of process map]

(Reproduced courtesy of HATC’s DevProMM)
**Introduction**

This section briefly describes the main stages in developing a land-led housing scheme. The great majority of the work will be undertaken by the technical experts appointed by the housing association, operating under the appointed project manager's plan and management. Key decisions should be taken by the smaller housing association’s board, mid-range decisions by the client representative and (possibly) minor decisions delegated to the project manager.

**Finding and buying land**

Many housing associations will have land that they already own that is suitable for development. Examples include redundant/under-used garage sites, open space or building over existing buildings.

New development opportunities come to a housing association through variety of sources usually involving intermediaries such as agents, consultants and contractors with whom the housing association has established relationships, public land disposal programmes and occasionally direct sourcing.

The association may choose to appoint a site finder to identify leads and (sometimes) to also negotiate the purchase on behalf of the association. Fees for this service vary depending upon the scope of services required, and the level of land price. Other opportunities will come from a private housebuilder looking to sell affordable housing they have to provide as part of a Section 106 agreement with local planners.

**Buying land by negotiation**

The association should set out their acquisitions brief, describing their land/building requirements – type of land, amount [in total], preferred areas, preferred site size, preferred purchase arrangement, typical decision-making timescales. This helps avoid wasting time on unsuitable ‘opportunities’.

Once a lead is identified, negotiations will begin. Before opening negotiations the client representative will need to properly prepare in order to negotiate effectively.

Initial negotiations will establish whether or not the two parties appear to be sufficiently close to being able to reach agreement (by agreeing initial, or outline, heads of terms) that it is worth undertaking a feasibility study.

The initial heads of terms will need to be refined/amended in the light of the feasibility study results. This can be the most difficult phase of the negotiation process.

**Buying land by bids**

The opportunity to purchase affordable housing developed further to a Section 106 agreement usually starts with the housing association having to bid in competition with others. However, buying land on the market may also mean taking part in the bidding process.

Tendering always directs success to the most aggressive bidder – in this case the one that will offer the highest price for the new housing. The frequent danger is 'bid fever', where the association tries to second guess how aggressively other housing associations will bid, and then decide to offer an even higher figure.

A more prudent approach is to carefully evaluate the quality of housing, estimate the likely responsive and planned maintenance work needed over the appraisal period and bid accordingly. In other words, matching the bid to the quality of the dwellings. Of course, the bid will on occasion be affected by other factors than simple financial evaluation – such as concern over reputational gain/loss by getting/losing the opportunity, needing to hit target figures or milestones, etc.

**Completing the deal**

Once heads of terms have been agreed between the principles, a further round of negotiation on points of detail is likely because of questions raised by both sides’ lawyers when translating the heads of terms into draft contracts. If the previous negotiation phase strained the goodwill between the parties, this can also be a difficult phase.

The conveyancing enquiries will have identified what land-law risks come with the property and (assuming acceptable solutions have been found), the report on title should confirm that the housing association will obtain good and marketable title, and can use the property for its intended purposes.
After completion of purchase, the client representative should check that the transfer of title has been recorded by the Land Registry.

A problem can arise where land is being sold by a VAT-registered company, who will want to charge 20% VAT on the purchase price. The housing association is unlikely to be able to charge VAT for its supplies (which is mostly rent, which is VAT-free), so the VAT bill is an actual cost to the organisation. In order to overcome this, housing associations may purchase a ‘building in the course of construction’ (VAT-able, but at a 0% rate) rather than land, using an arrangement known as ‘golden brick’. This meets the needs of both parties.

**Inception**

As noted in the earlier section, Describing Success, it is very important to establish right at the start of the project’s life whether all the key stakeholders have the same expectations of the potential scheme.

Where there are different expectations, these can be debated and an agreed position identified relatively quickly and very painlessly at the inception stage. If the different expectations are not identified until much later in the scheme’s life, the disruption to the scheme’s schedule and budget (or satisfaction of stakeholders) will be disproportionately greater.

The agreed objectives should be expressed in a SMART format so that when the project has completed it can be reasonably objectively assessed as to how well it succeeded.

SMART objectives can be very easily articulated for some project objectives (e.g. financial), but it is much harder for others (‘softer’ objectives). However, it is essential that they are developed, otherwise it would be impossible to know whether the project proves successful or not and whether the housing association’s investment was worth it or not. Adequate time (and resources) should be allowed for this task.

**Appoint consultants**

Consultants provide the client representative with advice, solutions and information on the technical issues needed to deliver the project. A simple scheme will need relatively few technical consultants – perhaps an architect, a valuer, a solicitor and a clerk of works. More complex schemes may throw up a variety of technical issues needing an extensive consultant team of specialists.

Consultant appointments need to clearly and comprehensively describe the services required, the timescales and fee payable, and should be in place before substantial work is undertaken. The professional bodies prepare standard schedules services and appointment documentation, which helps. As the language may be slightly technical, it may be helpful to have a plain English version so that there is a better shared understanding of the client’s expectations in terms of service delivery.

Where different specialists are contributing to the project, the main risk area for the housing association is poorly-managed interfaces, i.e. being clear which consultant is responsible for which issue, or element of design. Ensuring coordination and integration is essential, and this is a key part of the project manager’s job.

The process for selecting consultants must have regard to probity issues. Appointments will normally be made on a competitive basis, but may be negotiated appointments with a preferred consultant on occasions. One of the main disadvantages of this approach is that it can raise concerns about probity, i.e. bribery and corruption. Such appointments should therefore be made by more than one individual. Shared decision-making is the main defence against accusations of bribery or corruption.

It is useful to hold occasional reviews of each consultants’ performance as part of the management of the scheme. If the client representative feels dissatisfied with someone’s performance, s/he should raise the matter as soon as possible, and neutrally, to ascertain whether the dissatisfaction is well-founded or based on misunderstanding. If well-founded, the point will have been made. It is obviously bad practice to berate or treat people aggressively. It is equally important to complement team members when they have worked well, as such recognition generates goodwill and motivation.
The feasibility study

The purpose of a feasibility study is to reduce the margin of error of initial cost estimates (typically +/- 30% or more), to a level that will allow the client to feel comfortable authorising significant expenditure in developing the project to the next stage. This is typically 5-10%. This improved accuracy is achieved by carrying out investigatory work about key aspects of the land or building to be developed. This is usually done in three stages, by the personnel indicated below:

Client representative checks (maybe with help from the employer’s agent or equivalent):

- The arrangement, size and heights of buildings in the immediate neighbourhood
- Relevant planning policies which affect the site
- With the utilities, whether there are pipes or cables running under the site or over the site which may mean parts of the site cannot be built on
- Whether the utilities serving the site are near their capacity, limiting how many dwellings could be built on the site
- Land Registry records for confirmation of ownership, boundary, easements, restrictions (mortgages) or other land-law matters.

Commissioning a desktop investigation (also known as a Phase 1 study), from an environmental consultancy, looking mostly at the risk of contamination, but can also include work investigating whether pipes/cables, etc. run under or over the ground. It generally covers:

- Site history (to assess the risk of chemical contamination)
- Local geology (from maps, not by sampling the ground), to give a rough idea of the bearing capacity of the ground
- Hydrology, to indicate likely water-table level, and rough flood risk assessment
- Records of waste/pollution incidents (to identify if pollution may be a risk)
- Utility searches (if commissioned)
- Agency searches, e.g. Environment Agency, about rivers and flood risk (if commissioned)
- Site walkover (to look for signs of drainage or contamination, and identify surrounding context in terms of land use and consequent contamination risk).

This is a relatively cheap exercise, highlighting whether there are significant risks. If the scheme still looks feasible, the association will move to more expensive intrusive investigations, and an accurate land (topographical) survey:

Ground investigation report (also known as a Phase 2 study, or intrusive investigations), looking at:

- The mineral and chemical composition of the ground
- The level of groundwater
- Whether there are protected flora or fauna on the site that need protection or flora that need destroying
- (For existing buildings which are to be retained and repaired/improved/converted) a detailed structural and services survey.
Topographic survey:

- The shape of the ground (levels and slopes)
- Man-made features
  - Boundaries
  - Surfaces
  - Evidence of drains, voids or gases (manhole covers, vents etc)
  - Natural features
    - Trees/bushes
    - Watercourses
    - Water levels (if evident)

These investigations allow the team to gain a much more accurate understanding of how much of the land can be developed and how much work it will take (i.e. how long, and how much it will cost). At this point an architect can be asked to produce a proving layout to show how the expected number of dwellings could be laid out on the site. At least three different proving layouts should be provided to allow the housing association to select its preferred layout.

Once the preferred proving layout has been agreed, the project manager can:

- Obtain an initial cost estimate from the cost consultant
- Obtain valuation advice on the likely sales receipt of any dwellings for sale
- Create their schedule showing milestones and project completion

In the light of these improved estimates of capital cost, sales income, and timescale, the financial viability appraisal can be updated to see if it appears that the scheme comes within an acceptable financial threshold.

The feasibility study will also allow the risk register to begin to be populated meaningfully.

The output from a feasibility study is a business case that recommends either:

- Not to proceed further (abortive scheme)
- Approval to develop the scheme to the next stage.

Commonly, if the study suggests that the scheme is not feasible, the housing association may re-visit the project objectives and/or expected standards and amend them to a scheme that does appear to be feasible. This can obviously introduce tensions between the development/regeneration team (who want the scheme to work) and operational teams who may be reluctant to agree to such changes.
As an example, here are three significantly different layouts for a small site (more than five layouts were actually obtained):

Obviously, if a small site such as this can accommodate five or more significantly different layouts, larger sites will have an even wider range of options.

Obtaining three significantly different layouts is likely to provide the best balance between getting good-quality results and workload issues for most small to medium-sized schemes. However, on larger projects (50+ dwellings) there will be more potential options, and the housing association should consider asking the designer to show them more than three.

After an internal review, the preferred two or three proving layouts can be selected and costed, to allow the client representative to determine the preferred layout.
Design development

Design (in this context) is the process of deciding what is to be built.

It is a process of refinement from broad outline ideas through to providing detailed lists of systems components and materials that are to be purchased, and instructions on how to assemble them (for use by the construction team).

RIBA\(^2\) breaks the process into a number of stages which can be summarised as research/option appraisal (Stages 0 and 1), concept designs (Stage 2), developed designs (Stage 3), technical designs (Stage 4) and post-design work (Stages 5, 6 and 7). These stages are collectively known as the RIBA Plan of Work, and are illustrated here.

A full/detailed planning application can be made at the end of developed design (Stage 3).

For schemes procured on a design and build basis, the housing association’s design team generally produces design information up to the end of developed design (Stage 3) before handing the information to the contractor’s design team for them to undertake the Technical design (Stage 4) work.

The biggest design decisions are taken in the earliest stages, but the number of design decisions increases exponentially through Stages 1, 2, 3 and 4, with approximately 60% of the total design work (person-hours) occurring during the Technical design (Stage 4).

To the extent that the housing association has requirements about the types of design solutions that it finds acceptable or unacceptable\(^3\), these should be set out in documents that are provided to the relevant design team. Requirements regarding design decisions typically taken at Stages 1, 2 and 3 are usually in a document called the Design Brief, and those regarding Stage 4 are usually in a document called the employer’s requirements\(^4\).

Proposed designs will need to be reviewed by the housing association for compliance with their requirements and to ensure that letting, sales, management and maintenance problems are designed out as much as possible.

Such design reviews need to draw on the expertise of operational staff within the housing association (who therefore need to be allowed to spend suitable time on this activity even though it may not be part of their main responsibilities).
As smaller housing associations will undertake schemes less frequently, they may not have a standard design brief or set of employer’s requirements of their own. This can make the process of developing and agreeing designs significantly more time-consuming per project. It may be helpful to ask a larger housing association to allow them to use their design brief/employer’s requirements as a starting point, which can then be tailored to reflect the particular needs of the smaller housing association.

Further reading: The National Housing Federation’s Housing Standards Handbook is a good practice guide to design.

**Applying for planning permission**

By law, those seeking planning permission for schemes of 200 dwellings or more have to consult with the public before putting in their application. Smaller housing associations will not be undertaking schemes of this size, but should consider whether (like many larger housing associations) it might be worthwhile holding a public consultation even though it isn’t mandatory.

A meeting with the planning case officer prior to submitting a planning application (a ‘pre-app meeting’) can be helpful in identifying planning policies of special interest to key decision-makers in the council, and/or contentious aspects of the design so the housing association knows whether the application may be difficult or smooth.

A design and access statement should be submitted as part of the planning application. Often (mistakenly) seen by architects as unnecessary bureaucracy, the statement is actually an opportunity to highlight the careful thought that has gone into the design, gaining support from the planning officer. A well-crafted design and access statement can be of great assistance to the application.

As well as the proposed designs, the application form and fee, the housing association will need to provide a range of supporting information. This can be an extensive list of reports which can be time-consuming and costly to assemble, for which the client representative should have made allowance in the scheme budget and schedule.

It is very important to recognise that a planning application is not like seeking building control approval. Building control is the (reasonably) objective application of the rules, where 100% compliance is required. Planning is, instead, a negotiation over the extent to which the proposed designs are sufficiently compliant with planning policies. The client representative should approach planning applications in this light.

The housing association only has planning permission when it has received the decision notice from the local planning authority. A committee’s resolution to approve an application does not constitute actual approval.

**Procurement options**

The term ‘employer’ is generally used in contracts to describe the client, and so that is the term used in these sections of the guide that cover building contract issues.

The construction contracts generally used are known as a “lump sum” or “fixed-price” contract. That means that the price is quoted before the start of work, and won’t change unless the employer asks for more or less work, or delays the builder.

Joint ventures/partnership arrangements are ‘contracts’ that can vary from little more than a statement of intent to a clear contractual arrangement sharing obligations, risks and opportunities between the two parties. The term joint venture is therefore very loose and doesn’t, of itself, describe the nature of the relationship between the two parties.
Most housing associations use the design and build form of contract published by the Joint Contracts Tribunal (JCT), or other forms that are very similar. There are other ways of procuring work from the builder, but it is unlikely that smaller housing associations will try those less familiar methods, and so this section refers only to the design and build approach.

Here, of the three stages in design development described by the Royal Institute of British Architects (RIBA) [Stages 2, 3 and 4], the first two are undertaken by the housing association’s design team. The builder is then selected and given responsibility for undertaking the Stage 4 designs, and then building those designs. The ‘brief’ for stage 4 designs is a document prepared by the employer, called the employer’s requirements.

As design and build contracts mean that the interface between the technical design team and the onsite team lies within the builder’s areas of responsibility, any problems or delays on site that stem from inadequate design information lie with the builder. The employer is not exposed to that risk. Therefore, design and build contracts expose the employer to less risk of cost increases than traditional contracts. However, there is a consequential downside.

Under design and build contracts the builder has signed up to deliver the scheme for a fixed price, before the detailed design work has been started. They will therefore (perfectly sensibly) instruct their designers to produce technical designs information that are as cheap to build as possible and use the cheapest products that are compliant with the contract documents. Therefore, if the housing association’s employer’s requirements are weak, design and build contracts expose the employer to greater risk in terms of housing quality at a detailed level.

Most housing associations, however, do not have strong views about construction-level detailed design. So long as some minimum performance standards are met and (for a few key systems or components such as heating systems) the products used are from a specified limited range, housing associations are happy to accept typical technical designs and low-cost materials and products.

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**Preparing the construction documents**

When using ‘industry-standard’ form of contracts, many housing associations apply some amendments to reduce their exposure to (particularly) financial risk. As they undertake development only occasionally, smaller housing associations are unlikely to have developed a standard set of amendments, but may be able to access them by working with a larger housing association, or by using an employer’s agent who works for larger housing associations.

Whatever the form of contract, it will need to address the issues of:

- What work has to be done
- The acceptability standards to be applied
- When it has to be completed
- How much the employer will pay
- When the employer will pay
- How delays are dealt with
- How changes are dealt with
- How disputes are dealt with.

It is important that the terms of the contract are clear. One of the advantages of using standard industry forms of contract (particularly JCT contracts) is that the contractual clauses are very well understood. This is not the case in bespoke or amended clauses.

The form of contract sets out the obligations of the two parties. But the description of what work has to be done is set out in the associated contract documents which are (normally) the employer’s requirements and the contractor’s proposals.

The draft employer’s requirements should be reviewed by key stakeholders such as asset management colleagues.
The employer’s requirements will contain requirements on issues other than what is being built, for example needing insurance or other protection against contractor insolvency and/poor performance. There may also be requirements regarding how the contractor does the work – treating neighbours considerately, recruiting apprentices and/or offering work placements, arranging school visits, etc.

The best way of ensuring that the employer is happy with what they get at completion, is to prepare employer’s requirements that are both comprehensive and clearly articulated. This is harder than it sounds for housing associations large and small.

Selecting and appointing the contractor

A housing association may have little or no choice over which builder to use for a particular scheme if:

- The scheme is a package deal, with the opportunity brought to them by a builder, or
- The smaller housing association has a scheme where the construction contract is more than approximately £5m\(^1\) and so has joined a larger housing association’s framework agreement that dictates which builder has to be used, or
- The scheme is an off-plan purchase.

For land-led schemes, the housing association probably has a choice, and will therefore need to run a selection process.

This will involve identifying contractors who are likely to be interested, preparing a tender list, issuing tender documentation, receiving an opening tenders, evaluating the best one (or two) and identifying the preferred bidder.

This work would normally be managed on behalf of the smaller housing association by the project manager or the employer’s agent. However, the client representative is likely to be involved in deciding how bidders should be selected (e.g. price only, or price and some other quality – or service-based criteria).

It is very important that the process of placing substantial contracts with a company meets the highest levels of probity, to ensure that there is no suspicion whatsoever of corruption.

A high-level Gateway review should be held by the board prior to authorising the execution of the contract with the preferred bidder.

See the JCT Tendering Practice Note 2017

Mobilisation for the construction phase

Mobilisation is the work done after contracts have been awarded, preparing to start construction.

At this point the company appointed to do the work begins to assemble the team to be deployed, briefs them, and starts preparatory work.

The key role is the site manager, whose ability will likely govern whether the construction phases successful or difficult.

A pre-start meeting will be held to introduce personnel, and provide clarification on roles, communication channels, processes, requirements of the employer etc.

The contractor will produce a programme showing how they will complete the pre-construction activities (technical design development, site setup, procurement of initial subcontractors, planning condition discharge etc, and then undertake the works, finishing by the contractual completion date. Electronic copy should be provided to the client representative. See below for a simple example.

(Under design and build arrangements) the contractor’s design team will begin the work of producing the technical design starting with the substructure, so that the design information can be fed to the on-site team.
The design work will also need to include production of design information required by pre-commencement planning conditions, in order to obtain a discharge from the planning officer, to allow work to begin.

The contractor’s buying/procurement personnel will begin tendering and appointing subcontractors, and ordering plant, machinery and materials.

The contractor will produce the construction stage health and safety plan. The employer must not hand over possession of the site until the principal designer confirms that that plan is of suitable quality.

In the contract programme below, those tasks that are on the ‘critical path’ are shown in red. This means that any delay in the planned finish date of those tasks will have a knock-on effect, delaying completion. Some tasks however, are not critical. They can be delayed (for a while) without having an effect on the completion date. These are the non-critical tasks, and are shown in blue.

It is essential that the contractor’s programme shows which tasks are critical and which are not, so that as actual start/finish dates are achieved, the client can see whether actually finishing a task earlier or later than planned will affect the date of actual completion.

NB: this example programme is of a very simple, small project. The critical path on more complex schemes (such as building blocks of flats) will not be at all obvious unless it is highlighted in red.
**Construction phase (onsite)**

The main obligation of the housing association under a building contract will be to pay on time. It is therefore important that contractors’ invoices are paid promptly.

Payment may be made on the basis of pre-agreed amounts on completion of pre-agreed stages of work (stage payments). More commonly, payment will be made monthly (‘interim payments’), reflecting the value that the builder has added to the scheme over that time (assessed by the association’s cost consultant, by inspecting the works). On some schemes, payment may be mostly on completion (Section 106 agreement schemes will often be 10% paid when entering into the contract, and 90% at completion).

Interim payments that are lower than expected may indicate the builder is struggling to obtain the labour and/or materials. This may suggest they have cash problems. The association’s contract administrator (employer’s agent or quantity surveyor) should advise how to respond, if this risk appears to be crystallising.

The project manager should monitor the rate of payment and provide the housing association’s client representative with updated cash flows for the remainder of the construction phase.

One of the contractor’s main responsibilities is to build in accordance with the requirements in the contract documents. The client representative (supported by the employer’s agent) should hold them to account for this, but they cannot expect to receive anything beyond what is described in the contract documents.

The housing association should use a clerk of works throughout the construction phase to inspect and spot-check whether the builder is complying with the contract documents, otherwise there will be (significantly) higher levels of defects. It is a mistake to think that getting building control approval indicates that the builder has delivered the required quality. Building inspectors check compliance with the (very basic) building regulations. The contract documents will set a much higher and broader set of standards that the builder is being paid to meet.

These are not checked at all by the building inspector.

The other main responsibility of the contractor is to complete on time. The project manager should update and track their version of the contractor’s programme to monitor progress accurately, as site managers are notorious for refusing to admit that completion will be late until the last minute. Tracking the contractor’s programme shows the client the true position, allowing earlier discussions of remedial action, minimising actual delay.

The housing association is likely to have to provide the contractor with information/choices, and the client representative must ensure that this is provided on time, to avoid causing delay.

As well as providing the completed buildings and external areas, the contractor will have to provide significant amounts of information to the housing association. The project manager will need to ensure that this is available prior to practical completion.

Change is almost inevitable to some extent, either from external forces or arising from internal requests. The project manager should operate a change control process in this phase of the project’s life, as in others.

The client representative should attend the monthly site meetings where many of these issues are discussed and agreed. An important benefit is that the housing association should be a ‘visible’ client to avoid the onsite team believing that the housing association is disinterested, as this can significantly affect quality.

There are many reasons for schemes being delayed, but one of the most common is that the statutory utilities do not do their work at the time planned. The client representative is well advised to ensure that this question is raised from the very first site meeting onwards.
Handover and completion

The term ‘handover’ may be used to refer to transferring responsibility for the completed scheme from the development/regeneration team to operational colleagues. However, this guide uses the project management meaning of the word, i.e. the process of testing whether what is provided meets the requirements, and commissioning the building’s systems and services.

Building services will be commissioned and tested by the contractor, but should also be checked by relevant operational colleagues on familiarisation visits.

Checking that the buildings themselves and external works are complete and free from defects is undertaken by the ‘snagging’ process. This involves agreeing a physical example of an acceptable standard, which the contractor can then try to replicate throughout the rest of the scheme. This is then checked by the clerk of works.

As well as providing the completed buildings and external areas, the contractor must also provide the information required by the employer, such as latent defect insurance policies, operational and maintenance manual, etc. Without this, completion will not occur.

The employer may take completion of the entirety of the scheme, or may have planned from the start of the contract to take it in sections (sectional completion). Even if this was not planned, the employer can choose to take completion in stages (partial possession).

Schemes can often suffer from frustrating last-minute delays to completion where information is late, or an acceptable standard of finish to the buildings has not been met by the contractor. This can cause disruption to residents moving in, and damage to the housing association’s reputation. It is therefore important that the handover process is begun early, sufficiently resourced, and well managed.

Defects management

A defect is a problem that stems from a failure by the builder to comply with their obligations under the building contract. It is not any and every problem that arises in the first few months after completion. Under most contracts, builders are required to fix defects for free.

Prevention is better than cure – housing associations should ensure that their contract documentation is clear, and that their quality control checks on site are such that the incidence of defects is minimised.

The housing association needs to filter reported problems to identify which are defects (and referred to the builder) and which are not (and might therefore be responsive repairs or re-charges to residents). Defects are to be rectified within timescales set down in the contract (usually reflecting responsive repairs timescales).

Many builders perform poorly in this regard causing very significant irritation to residents. Housing associations should actively manage (not passively manage) reported defects to get a resolution for the resident within the expected timescales. Housing associations can instruct their maintenance contractors to rectify defects and recharge the cost to the builder where performance is poor. After (usually) 12 months the ability to recharge the builder expires. Occasional developers, such as small housing associations, will need to plan carefully how they will manage defect rectification effectively and efficiently, as it is a different process from responsive repairs.

The builder’s obligation to rectify defects continues for 12 years after completion, but it gets progressively harder to identify whether the problem is technically a defect. Even if it is, the builder may choose not to rectify it, effectively challenging the housing association to sue them. This then becomes a commercial calculation for the housing association.

See the Soft Landings Framework 2018
Closing the project

Contractual matters with the builder and consultant team will need to be finalised. The final account will need to be agreed with the builder and signed by both parties. This may be a simple matter of adding up the previously agreed adds and omits to the contract sum or maybe something that requires considerable negotiation.

Contentious issues may include the pricing changes requested by the employer, the contractor’s entitlement to extensions of time, the employer’s entitlement to levy liquidated damages, and the contractor’s entitlement to loss and expense.

Once the final account is agreed and signed, and once the defect rectification period has elapsed and the identified defects are rectified, the final certificate can be issued, concluding the contractual arrangements (apart from latent defects, if they arise).

On very small projects, the post-project review should identify what went well, but – more importantly – how the project could have been better managed or more successful, and what lessons could be applicable to other projects in the future. These lessons should then be incorporated into updates to relevant documentation such as development procedures, the design brief, the employer’s requirements, the housing association’s standard contract amendments etc.

Apart from very small projects, post-activity reviews should be held, rather than a post-project review. Examples are post-acquisition, post-developed design, post-planning application, post-contractor selection, post-construction and post-project. This is to ensure that the personnel involved are still around, and everyone can remember what went well and what went badly.

Project information will need to be filed and archived in a way that it is easily retrievable in the future. It is important that the information is complete so that it facilitates the future charging of the property for loan purposes, and/or audit of the project.
Case studies

**Alpha Living**

**Alpha is a specialist provider of age-appropriate housing, mainly in the form of sheltered accommodation. It has 880 properties across the North West.**

Following a treasury management review, Alpha identified the capacity to undertake a new scheme every few years. This paved the way to start developing a 78-apartment extra care development at Upton, Wirral in February 2019. This will complete in October 2020 at a cost of £13m, with grant support from Homes England and Wirral Council.

Alpha followed a land-led procurement route, buying a site from the local authority. The early work of negotiating with the local authority and Homes England was done by the Chief Executive, whilst the early stages in the project’s life was managed by an external consultant (Steve Wood) with whom Alpha had previously worked. The project manager recruited the main members of the technical team, managed the feasibility studies and the development of designs up to obtaining planning permission, with Pozzoni the architects and Markhams the employer’s agent. The Chief Executive continued to lead on managing key stakeholders such as the local authority and Homes England.

After planning permission was granted, the project manager moved roles to that of gearing up the operational teams, to ensure a smooth transition from development into operations. A new project manager was therefore appointed, this time an external firm.

The key advantage for Alpha was the freedom to choose members of the project team who share their values and passion for age-appropriate housing. As well as being competent, they are enthusiastic, and very supportive of Alpha as an occasional developer, i.e. less knowledgeable and experienced in the process, risks and opportunities. The project is running to time and budget, delivering a high quality, high specification scheme which reflects HAPPI principles, and the aspirations of the next generation of older people (following research Alpha carried out in 2018).

Alpha has been able to emphasise to the project team the importance of open conversations on risks – particularly important for both smaller clients and occasional developers (Alpha are both). Risk identification and management has been a key part of the project. This has resulted in more accurate predictions of costs and timescales over the project’s life, which has helped maintain credibility with stakeholders (which increases support).

The main disadvantage of this approach to managing a project is the demand on in-house (chief executive) resources. That may have been less if Alpha had asked another (larger) housing association to act as their agent or project manager. But Alpha wanted to retain full control, and avoid the risk that another housing association might see their (flagship) scheme as a lower priority than their own development projects. Alpha feels the extra in-house demand is a price worth paying, even though it has been more than originally thought.
Bexley Community Housing Association (BECHA) owns 140 homes in Bexley and manages a further 63 almshouses in Gravesend, on behalf of a local charity.

Five years ago, BECHA began to build up a financial reserve for acquisition of street properties or development.

Orbit Housing Association were developing a land-led small scheme and had completed the main design work and obtained a detailed planning permission. They asked BECHA if they would like to enter into a pre-construction purchase agreement to buy the properties (when built) at cost. Crucially, there was a cap on the price so that if costs exceeded the cap, BECHA could withdraw from the purchase agreement.

BECHA influenced the contents of the building contract documents before the tender. Orbit entered into the building contract with the chosen contractor. BECHA attended all the site project meetings and were fully involved. Orbit’s contract manager was very supportive and helpful.

BECHA were very happy with the finished quality, which was excellent. The project costs were reviewed regularly and although a contingency had been provided, only a small percentage of this was used. Handover was delayed by several weeks due to the utility companies, and this was probably the most difficult time because of the effect on residents.

BECHA had excellent relationships with Orbit’s development team and particularly the contracts manager. The experience leads BECHA to believe that working with a sympathetic larger housing association, acting as their development agent, can be very successful, although had the personnel or relationships been less good this would not have been such a positive experience.
Greenoak Housing Association

Since re-starting development some 20 years ago, Greenoak has delivered schemes of 5-20 dwellings per year now, managing around 500 homes. Over that time it has moved from procuring by Section 106, mostly using package deals with JCT contracts, to land-led arrangements to allow higher quality and more sustainable homes.

For their first few years, Greenoak used larger housing associations as their development agent, to manage the development of their schemes for them. They moved away from this through concerns that their schemes were not being appropriately prioritised, and that the Section 106 route limited standards. For the last decade, Greenoak has recruited a mixture of part-time in-house and freelance staff to do the project management, supported by the appointment of external firms of architects, engineers and specialists. The current focus is on acquiring low-cost sites and re-developing/refitting their own sites, to allow further development towards low carbon homes.

Greenoak identifies the advantages of this approach of having the management of the scheme led by an in-house member of staff as:

- Developing better briefs for the external technical team (architects, employer’s agent, etc.), and being more successful in getting designs and building that meet those briefs (greater control over quality).
- Obtaining better quality dwellings, and greater control over timescales to milestones and completion.
- Improved risk management, especially long-term.

Disadvantages include higher development risk, internal costs (takes more time) and external fees arising from land-led procurement, but the improvement in performance and quality issues have been demonstrated in use. Greenoak sees advancing sustainable housing as a core objective and is committed to sharing this openly through a variety of partnerships.
PHA Homes is an independent, charitable housing association providing high quality homes and management services in East Hampshire.

In recent years, schemes have been primarily land-led, with occasional package deals and Section 106 schemes. Generally, development is led by the Chief Executive who (as is typical for smaller housing associations) does not have a development background.

The land-led schemes have historically been managed through an independent external consultant acting as PHA’s project manager. The organisation also has a long and good relationship with an external firm of employer’s agents. Both these key personnel have worked with smaller housing associations before and therefore understand the challenges.

More recently, PHA has switched to commissioning development agent services from a larger local housing association. One of the benefits is that this provides access to a financial viability that is too expensive for PHA to purchase itself, and can be challenging to use and understand for occasional developers such as PHA.

The development agent undertakes financial viability appraisals for PHA. Project management responsibility lies with PHA Homes and the employer’s agent, as well as their usual responsibilities of cost consultancy, tender process administration and contract administration.

PHA finds working with a larger housing association a very positive support, and particularly values the feeling of working in partnership.
Wirral Methodist Housing Association

Wirral Methodist spends £2.5-£3m per annum producing approximately 12-25 dwellings per annum, consisting of generally 1-4 schemes.

Wirral Methodist’s preferred form of procurement over the last five years has been package deals. Local and regional builders with whom they have had positive long-term relationships, identify land-purchase opportunities and act, with input from the housing association, as their design team (developing concept and developed stage designs), and obtain planning permission.

They then negotiate a JCT design and build contract with the housing association. The association simultaneously enters into the land purchase contract and the construction contract after planning permission is granted. The builder is working at risk until the association enters into these contracts.

Wirral Methodist prefers this way of developing to Section 106 schemes, as they have more control over the design, space standards and quality of what is built. They prefer it to the land-led approach as it reduces the risk of making financial commitments before knowing whether grant is available and/or planning permission will be granted, thus keeping risk exposure for the association to a minimum.

The association’s project management work is undertaken by an in-house member of staff (their Head of Asset Management, David Corran, a building surveyor) who shares his time equally between development matters and the repairs and maintenance functions of the housing association.

David’s experience is that this form of procurement works very well for his organisation, but highlights that it is based on considerable trust between the parties, which has developed over many years of working successfully together. He also highlights, given the nature of such relationship-based procurement, that it is essential that the housing association can demonstrate probity at all times.

This is achieved by the projects being audited by two bodies – Homes England’s compliance audit, as well as the annual audit by their procurement partnership and the ability to demonstrate excellent value for money with the projects undertaken.
Appendices

1. Business case template for internal Gateway approval

2. Risks prompt list for land-led schemes

Download as separate files from our website
1 Affordable rent, private rent, licensed, shared ownership, outright ownership.

2 General needs family, general needs single people, older people with minimal support needs, older people with significant support needs, younger people with support needs etc.

3 Sometimes the development opportunity is brought to the housing association by a consultant, such as an architect, rather than a builder. In that case the expectation is that the housing association will seek to negotiate the architectural services contract with that person. The housing association would then have freedom to choose its building contractor. Although basically the same structure (the housing association can’t choose one of its two main suppliers), these arrangements are not normally referred to as a ‘package deal’, but are more likely to be referred to as a land-led scheme.

4 The technical term is described in ‘The Players’ section

5 Taking into account the need for re-investment in existing stock, as well as the limit on borrowing determined by the Income & Expenditure Account and Balance Sheet.

6 The price that is “agreed” before a feasibility study is undertaken should be clearly subject to assumptions that the land does not suffer from “abnormal” costs, to allow the housing association the opportunity to renegotiate the price once the abnormal costs have been identified in the feasibility study.

7 The JCT is a publishing house that publishes contracts and sub-contracts for the construction industry to use. There are other contracts from other organisations than the JCT, but JCT is the largest. Of the suite of approximately 12 main contracts the JCT publishes, only one is on a design and build basis; the others are all traditional i.e. the builder has no responsibility for design, they just build.

8 Although building control approval will be needed. Also, if the improvement works involved subdividing a dwelling into two or more dwellings, planning permission will be needed for that reason.

9 These activities won’t be done in this order on all schemes, but all schemes will do these tasks in an order.

10 For simply finding leads, the fee may be an hourly rate. For finding and negotiating, it would normally be a percentage. In expensive areas the fee will be a low percentage – perhaps 0.5% of the purchase price. In areas where land values are low, it might be closer to 5%. The fee is normally payable on exchange of contracts.

11 Or update it, if it was initially created during Inception stage.

12 Royal Institute of British Architects, the main professional body for architects in the UK

13 Most do. Some housing associations requirements are few, and some are extensive. The important point is that the design brief and employer’s requirements must include all the requirements, whether that list is long or short.

14 Requirements relating to technical design issues form part of the employer’s requirements, but these also include other sections with requirements regarding different topics, such as standards of workmanship, how the work is to be undertaken, local community benefits, information/documentation to be provided etc. These requirements are also known as ‘performance standards’.

15 Which are set out in the employer’s requirements.

16 Again, as set out in the employer’s requirements.

17 Housing associations are subject to the European Union Procurement Directive which states that construction projects of approximately £5m on larger have to go through a detailed selection process that will take several months. A short cut can be to join up with a larger housing association who has already gone through that selection process and has a framework agreement in place that has already identified builders that can be used for individual projects.
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Development guide for smaller housing associations

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The National Housing Federation is the voice of housing associations in England. Our vision is a country where everyone can live in a good quality home they can afford.

Our members provide two and a half million homes for six million people. And each year they invest in a diverse range of neighbourhood projects that help create strong, vibrant communities.