



DERBY CITY COUNCIL

Council Cabinet
14 December 2010

ITEM 10

Report of the Strategic Director for Adults,
Health and Housing

DE-DESIGNATION OF FLATS

SUMMARY

- 1.1 Approximately 970 of the Council's 13,585 housing stock are currently designated for occupation by tenants over 40 years of age. This figure excludes sheltered/supported living properties. The current policy of age designation of specific flats was applied to 970 flats in Derby in 1989. This followed approval from the then Housing Committee in 1988. At the time this equated to approximately 5% of the 19,023 total housing stock.
- 1.2 The policy was approved and implemented in 1989 in response to growing anti social behaviour complaints from older tenants living in flats where there were younger tenants.
- 1.3 The current policy is now over twenty years old and a review of this policy has been carried out taking into consideration demographic changes and the growing need for housing.
- 1.4 The proposal contained within this report following on from the review, is to de-designate 652 flats. These flats have been identified as being suitable for de-designation by a working group whose remit included looking at issues specifically affecting flats and flat life, and identifying appropriate criteria justifying a decision for their de-designation.
- 1.5 The Equality Act 2010 came into force on 1 October 2010 and an important part of the Act is the Public Sector Equality Duty, which plays a key role in ensuring that fairness is at the heart of public bodies' work and that public services meet the needs of different groups.

RECOMMENDATION

- 2.1 To authorise the de-designation of the 652 identified properties listed in Appendix 2.
- 2.2 To instruct officers to monitor the impact of the de-designation of the properties and report any findings back to the Executive Member for Housing and Advice Services and the Strategic Director of Adults, Health and Housing on a quarterly basis for a minimum period of 12 months. These reports will include all complaints (formal and informal and will include Councillor enquiries and feedback), challenges against the implementation of the review proposals, reports of anti social behaviour, void figures and identified and agreed value for money measures.

- 2.3 To update the policy on designation of properties and ensure that access to housing is transparent and complies with all current legal requirements and good practice.

REASONS FOR RECOMMENDATION

- 3.1 To ensure that the Council is maximising access to and availability of its properties to all age groups, without a negative impact on any group whether directly or indirectly.
- 3.2 To ensure that the Council is achieving value for money by effectively managing the housing register, re-let and void turnaround times.

SUPPORTING INFORMATION

- 4.1 The current policy was approved and implemented in 1989 in response to growing anti social behaviour complaints from older tenants living in flats where there were younger tenants. A report was submitted to the then Housing Committee on 20 December 1988. The report outlined a proposal to reduce complaints by identifying specific blocks of flats for allocation to mature/older applicants only. The Housing Committee approved the proposal in principle, subject to consultation with ward councillors and affected tenants.
- 4.2 Following the consultation exercise a further report, listing specific identified suitable properties, was submitted to the Housing Committee meeting on 5 September 1989. The Housing Committee approved the proposal which involved designating 5% of the housing stock. The properties are predominantly one bedroom flats.
- 4.3 At the time the policy was approved, the Council's housing stock was 19,023. Over the last 20 years this has reduced to 13,585, primarily due to Right To Buy (RTB). The 970 designated properties now equate to 7% of the housing stock.
- 4.4 Demand on the housing register during that period increased from 8134 applicants in 1989 to 9651 in 2009.
- 4.5 Annual reviews of the housing register were implemented in 2009. They were introduced to ensure that the register was accurate. The first review was June 2009 and the second was June 2010. These reviews have reduced the total number of applicants on the housing register to 7602. However, Table 1 below demonstrates that people aged 18 – 39 are the largest proportion of households on the housing register.

Table 1

AGE	18 - 39	40 - 59	60+
FEBRUARY 2009	5769	2468	1414
SEPTEMBER 2009	5268	1990	886
FEBRUARY 2010	5228	2084	995
JUNE 2010	4482	2130	990

- 4.6 The 18 – 39 age group account for 59% of applicants on the housing register compared to 28% for the 40 – 59 age group and 13% for those aged 60+.
- 4.7 The proposal is to de-designate 652 selected flats from the current 970 properties. These flats have been identified as being suitable for de-designation by a working group whose remit included looking at issues specifically affecting flats and flat life, whilst investigating which of the 970 properties were suitable for de-designation.
- 4.8 The Flats Project Working Group (FPWG) membership included staff and tenant and leaseholders. The FPWG had two meetings and dealt with the following objectives:
- Researched and identified a list of all age designated properties.
 - With agreement from the Housing Options Centre Manager, the group examined the list of designated properties and asked Housing Managers to use local knowledge to identify any reasons why the suggested blocks might be inappropriate for de-designation.
 - Housing Managers collated information on the age of all tenants/leaseholders in all blocks of flats identified.
 - The leaseholder Manager confirmed that there were no age designation covenants in any of the leaseholds.
- 4.9 In addition the group also considered:
- Location of flats – the location of each block was considered based on demand and expressions of interest on housing applications
 - Age of residents – the analysis of the age of the residents in the identified blocks helped the FPWG identify where there were predominantly tenants aged 60+. It was agreed that where there were predominantly older tenants that those blocks would not be de-designated.
 - Proximity to Supported Living Schemes – as these are part of the Category 2 schemes, aimed at supporting the over 60's, these blocks were not considered for de-designation.
 - Number of leaseholders – where a block contained a large number of leaseholders these were not considered suitable.
 - Flats with Piper schemes to be de-commissioned – as these flats were no longer offering a specific service these properties were considered suitable to be de-designated. However, no properties with disabled adaptations will be de-designated.
 - Local information provided by staff – history of each block was investigated. This included looking at anti social behaviour, complaints and turnover rates. None of the blocks identified as being suitable for de-designation were identified as having any of the above issues.

- 4.10 A postal consultation of existing residents of the affected blocks has taken place. The questionnaire enabled tenants to advise Derby Homes in detail of any issues or concerns that they had regarding the proposed change in policy. Summary findings of the consultation are that the majority of respondents understand why the Council need to provide more homes for people under 40 (85%), but were concerned that their blocks had been identified as those proposed for de-designation.
- 4.11 The current policy prohibits applicants aged under 40 from applying for properties currently designated. The younger group is therefore disadvantaged in terms of the length of time they are likely to be waiting for suitable properties. This links back to Table 1 in paragraph 4.5, which highlights that the largest group on the housing register are engaging with the system, but are not successful in being allocated properties.
- 4.12 Latest figures show that 34% of flats advertised are designated to applicants aged over 40 with 48% of all 1 bedroom flats being offered to applicants aged 60+. Considering that only 12% of applicants on the housing register are aged over 60, there is an oversupply to this age group. If these flats were available and advertised to those aged under 40 it would relieve the pressure on the housing register.
- 4.13 The Equality Act 2010 came into force on 1 October 2010 and brings together nine separate pieces of legislation into one single Act. The Act extends positive action provisions to all 'protected characteristics', which include age. However, although anti-age discrimination provisions are specifically not extended to premises, the need to have regard to the Public Sector Equality Duty nevertheless impacts on the provision of housing accommodation for the reasons detailed below in paragraph 4.17.
- 4.14 The Equality Act 2010 seeks to outlaw unlawful discrimination against a person or group of people because of:
- age
 - disability
 - gender re-assignment
 - marriage and civil partnerships
 - pregnancy and maternity
 - race
 - religion
 - sex, and
 - sexual orientation

These are known as the protected characteristics, all of which were covered to varying degrees by previous legislation. In addition, the Act also recognises that unlawful discrimination can occur because of a combination of protected characteristics.

- 4.15 An important part of the Act is the Public Sector Equality Duty, which plays a key role in ensuring that fairness is at the heart of public bodies' work and that public services meet the needs of different groups. It also requires public bodies to think about how they can eliminate discrimination, advance equality of opportunity and foster good relations for all protected groups.

- 4.16 The public sector should lead the way in this area, very often the most vulnerable people, who are the most dependant on public services, are those from the protected groups whose needs will not be met by a one size fits all approach
- 4.17 The Duty requires public bodies to proactively think about how they can ensure that everyone has an equal opportunity to use and access public services. As a matter of good practice and good business organisations should treat everyone accessing their goods, facilities or services fairly, regardless of their age, gender, race, sexual orientation, disability, gender reassignment, religion or belief, and guard against making assumptions about the characteristics of individuals.
- 4.18 The main elements of the Act which are relevant to social housing providers are:
- the protected characteristics, as listed in paragraph 4.14
 - the definitions of unlawful discrimination
 - the disability related aspects
 - the provision of goods, facilities and services
 - positive action and the genuine occupational requirements
 - employment related matters and pay reviews
 - duties to advance equality
 - tackling socio-economic inequalities and
 - procurement
- 4.20 The Equality Act 2010 extends positive action provisions to all protected characteristics which include age. However, anti-age discrimination provisions are not extended to premises as referred to in paragraph 4.13. Part 4 of the Equality Act deals with premises and Section 32 makes it clear that Part 4 does not apply where the protected characteristic is age. This means that it is not unlawful to discriminate on the grounds of age in the disposal and management of premises.
- 4.21 The government has indicated that it decided not to include age in Part 4 because there was little evidence of harmful age discrimination in relation to age and premises, whereas they were presented with plenty of age-based housing which should be retained. Examples included Foyer homelessness services and sheltered housing.
- 4.22 This current anomaly makes the legislation confusing as local authorities and Registered Social Landlords are covered by the equality duty. Therefore they will have to demonstrate having given due regard to the need to eliminate discrimination, advance equality and foster good relations in respect of age for their housing functions, to lawfully justify discriminating in the management and disposal of premises. The proposal contained in this report goes some way towards providing that justification.
- 4.23 Age Concern and Help the Aged have both previously investigated and found evidence of discriminatory practices in the allocation of premises on the basis of age, both towards younger and older people. They are strongly opposed to the belief that all age-based differentiation in housing is justified. They note that there is much to be said for bringing people of different ages together. A report by the Joseph Rowntree Foundation 'Social Cohesion in Diverse Communities' (2007), noted that age related social divisions were particularly prominent as a factor working against social cohesion.

- 4.24 In 1989 when the de-designation policy was implemented the housing management service was significantly different to what it is today. There are now many tools available to deal with clashes of lifestyle or the more serious issue of anti social behaviour that affect a small minority of tenants;
- All new tenants have an introductory tenancy for 12 months. Any breaches to the tenancy are dealt with by specialist officers, and in cases of persistent or serious anti social behaviour the tenant will be evicted.
 - Derby Homes has an extremely effective specialist Anti Social Behaviour Team.
 - A new Tenancy Sustainment Service was introduced earlier this year. All new tenants are assessed to ascertain the extent to which they are able to manage a tenancy within the first 12 months. The majority of new tenants will receive this service and therefore any issues would be identified and resolved expediently.
 - New tenants sign a Good Neighbour Agreement.
 - New guidance has been issued on the responsible ownership of pets. This has been targeted at tenants and leaseholders in flats, and complements the existing conditions of tenancy.

OTHER OPTIONS CONSIDERED

- 5.1 Do nothing, but this will be in direct opposition to the Public Sector Equality Duty as it could be argued that we are assuming that all tenants aged under 40 will cause a nuisance to other residents, and the Council could be challenged. It is also not best use of our resources or value for money as currently we have longer void periods on designated properties due to demand being lower.

This report has been approved by the following officers:

Legal officer	Stuart Leslie
Financial officer	David Enticott
Human Resources officer	N/A
Service Director(s)	Mark Menzies
Other(s)	

For more information contact: Background papers: List of appendices:	Name Sharon Hancock Housing Performance Manager 01332 287236 e-mail Sharon.hancock@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Schedule of properties proposed for de-designation
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IMPLICATIONS

Financial

- 1.1 None directly arising from the report except those contained in the report relating to void turnaround costs.

Legal

- 2.1 The Equality Act 2010 has brought together nine separate pieces of legislation into one single Act, simplifying the law and strengthening it in ways to tackle discrimination and inequality.
- 2.2 Part 4 of the Equality bill deals with premises and Section 32 makes it clear that Part 4 does not apply where the protected characteristic is age. This means that while it is not unlawful to discriminate on the grounds of age in the disposal and management of premises, this is subject to having in place objective justifications for maintaining discrimination, or not discriminating, as appropriate.

Personnel

- 3.1 None arising from report

Equalities Impact

- 4.1 An Equalities Impact Assessment has been carried out and has identified that the de-designation of flats will have a positive effect on people in housing need being able to access a wider choice of accommodation. There is also a positive effect in terms of VFM.
- 4.2 There is a perceived fear that there will be a negative impact on existing tenants who live in or near the blocks and this will need to be managed.

Health and Safety

- 5.1 No specific health and safety implications are linked to the proposals in this report but the situation will be monitored in line with the main recommendations.

Carbon commitment

- 6.1 None specific arising from this report.

Value for money

- 7.1 This report provides an opportunity to maximise utilisation of Council owned properties and reduce waiting lists by better matching the age related designation of flats with the age profile from the housing register.

Corporate objectives and priorities for change

8.1 HC4: To deliver accessible, high quality, inclusive Housing and Advice services.
Increasing the number of affordable homes delivered.

COD2: To deliver Value for money across all services.

North

Address	Number of properties	Address	Number of Properties
Downing House	5	Lees Brook House	2
Elms Street	13	Ashworth Avenue	16
Kings Mead Close	19	Waterford Drive	19
Kings Mead Walk	22	Wiltshire Road	28
Parker Street	12	Lothian Place	15
Quarn Gardens	49	St Mark's Road	4
City Road	8	West Road	6
John Lombe	9	Church Street	5
Dower Close	12	Youlgreave Close	10
Maple Grove	3	Birchover Rise	23
Rivermead House	31	TOTAL	311

South

Address	Number of properties	Address	Number of Properties
Alwards Court	24	Arthur Court	19
Boulton Lane	31	Rauche court	30
Farndale Court	25	Kinder Walk	10
Stonedale Court	12	Masson Walk	17
Metcalf Close	18	Leonard Walk	24
Mosedale Close	30	Bloomfield Close	9
Woodruffe Walk	4	Keble Close	18
Darwin Avenue	5	Lambe Court	27
Shipley Walk	11	St David's Close	1
Shirland Court	23	TOTAL	346
Dunoon close	8	North & South Total	657