



Regenerating Our City Overview & Scrutiny Board
Date 1 December 2015

ITEM 6

Joint Report of the Cabinet Member for Communities & City Centre Regeneration and for Urban Renewal

Cabinet Members' responses to Board recommendations from a Topic Review of Affordable Housing

SUMMARY

- 1.1 The former Cost of Living Overview and Scrutiny Board undertook a review of affordable housing and presented its findings, together with 12 recommendations for action, to Cabinet at its 15th April meeting this year. This Topic Review has now been taken over by the new Regenerating Our City Scrutiny Board.
- 1.2 As Cabinet Members with responsibility for planning and housing strategy, we both share the Board's objectives of improving delivery of housing and especially of affordable housing to meet needs across the City. We are therefore pleased to be able to respond to these recommendations.
- 1.4 Our responses are set out in Appendix 2 to this report.

RECOMMENDATION

- 2.1 To note our responses to Board's recommendations

REASONS FOR RECOMMENDATION

- 3.1 To consider responses to Board's recommendations

SUPPORTING INFORMATION

- 4.1 Last year, the former Cost of Living Overview and Scrutiny Board carried out a topic review of how the Council secures affordable housing, particularly through the planning process. This review, together with 12 recommendations, was presented to Cabinet at its 15th April meeting this year. This report sets out our joint responses to these recommendations.

- 4.2 Meeting affordable housing needs across the City are key priorities that we share. We recognise the difficulties in meeting these and the limitations of the planning system on its own to provide enough affordable homes to meet these needs. We therefore welcome the review and are pleased to respond to it. You will see that due to the passage of time, some of the recommendations have already been taken on board whilst others will be taken on board or are being given further consideration as to how best to implement. There are a small number of recommendations, such as lifetime homes, where we feel it is best to leave the policy as it is but to consider each situation on its merits and adopt a flexible approach as the case requires. National guidance requires a flexible approach in any case and Government is making clear that it expects this.
- 4.3 To this end, we would like to draw your attention to a number of important developments in recent months since the review was undertaken. Some of these, in our view, are positive developments whilst others are cause of significant concern.
- 4.4 Firstly, new opportunities to improve delivery of affordable housing are emerging through the D2N2 'Devolution' discussions with Government for increased local powers. Whilst no agreement has yet been reached, it is hoped that local powers will be acquired that help the D2N2 authorities build more affordable houses both directly and indirectly, including using its own land assets for this purpose.
- 4.5 Secondly, a new Housing and Planning Bill is currently passing through Parliament. Whilst details may change, it appears that the Government is no longer going to require developers to provide homes for social/affordable rent and instead will alter the definition of affordable housing to include starter homes. Starter homes, in this context, are for market housing up to a value of £250,000 but sold at a 20% discount to first time buyers under the age of 40.
- 4.6 The draft Bill does not appear to give any details about any proposed split between starter homes and rented affordable, but it does say that local authorities will be required to 'carry out their relevant planning functions with a view to promoting starter homes'. It goes on to say that authorities may be required to 'only grant planning permission if the starter home requirement is met', although it does go to say later that authorities may be able to accept financial contributions and use their discretion.
- 4.7 The full implications of this Bill are not clear at the moment, but we both have concerns about its potential impact on the delivery of affordable homes to those most in need.

OTHER OPTIONS CONSIDERED

- 5.1 None.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Stephen Teasdale, Planning and Highway Solicitor Ian Fullagar, Head of Strategic Housing
For more information contact: Background papers: List of appendices:	Andrew Waterhouse 01332 642124 andrew.waterhouse@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Schedule of recommendations to Cabinet from the former Cost of Living Board together with Cabinet Member responses to them.

IMPLICATIONS

Financial and Value for Money

- 1.1 Improving the process of negotiating Section 106 Agreements will help secure more affordable housing.

Legal

- 2.1 The NPPF requires planning authorities to identify the need for affordable housing in their area and to set policies to meet that demand.

Personnel

- 3.1 None.

IT

- 4.1 None.

Equalities Impact

- 5.1 Effective scrutiny benefits all Derby people and the very nature of the Scutiny Commission's work means that equality issues are addressed.
- 5.2 The report makes a number of recommendations and if the recommendation to reduce the number of Lifetime homes on developments is approved this will have a negative impact on disabled people, their friends and families. Disabled people find it very difficult to find suitable housing that can be easily adapted to their needs and Lifetimes Homes was one way of reducing this difficulty and giving disabled people more choice. In addition these homes mean that disabled people can visit friends and family too. Reducing the number of Lifetime Homes in favour of fewer more enhanced accessible properties will only benefit a few disabled people.

Health and Safety

- 6.1 None.

Environmental Sustainability

- 7.1 None.

Property and Asset Management

8.1 None.

Risk Management

9.1 None.

Corporate objectives and priorities for change

10.1 From the Derby City Council Plan 2014/15:
"...provide good-quality housing and worksites across the city."
"Reduce homelessness and increase the housing supply"

Responses to Affordable Housing Review

RECOMMENDATION	RESPONSE
<p>Recommendation 1</p> <p>The Council should consider extending the use of Right to Buy Receipts to provide the maximum of 30 per cent of these costs in locations where it is appropriate to maximise the levels of affordable housing.</p> <p>External grant funding for affordable is not generally applicable to Section 106 and is currently allocated at around 15 per cent of development for general needs housing, however the Council could consider allocating its Right to Buy receipts to Section 106 sites to increase affordable housing delivery. The Council is allowed to allocate grant funding up to 30 per cent of development costs which would increase site viability. This would need to be considered on a case by case basis within the S106 agreement.</p>	<p>Response</p> <p>Cabinet of 19th November 2014 approved the allocation of RtB receipts to private Registered Providers to support Section 106 delivery.</p> <p>The use of Right to Buy (RtB) receipts can play an important role in increasing delivery of affordable housing. As such, these are now being discussed with developers as part of negotiating Section 106 Agreements for affordable housing. It is certainly an area where we will seek to maximise the value capital receipts to increase the delivery of affordable housing.</p>
<p>Recommendation 2</p> <p>On a site specific basis, the Council should consider further reviewing the tenure mix to increase the proportion of shared equity and switching rental from social rent to affordable rents.</p> <p>This would improve the viability of achieving the levels of affordable housing required across the city.</p>	<p>Response</p> <p>Current policy in the latest version of the Core Strategy (Local Plan) does now allow for greater flexibility than has been the case in the past.</p> <p>There are three different categories of 'affordable housing'; social rented, affordable rented and intermediate housing.</p> <ul style="list-style-type: none"> • Social rented housing is let at a 'target rent' determined by a nationally derived formula rather

	<p>than by the market. Most existing affordable housing is let as social rent.</p> <ul style="list-style-type: none">• Affordable rented housing is let by local authorities or private Registered Providers at 80% of the local market rent and therefore is more subject to market conditions.• Intermediate housing, which includes shared ownership, is provided for rent and sale at a cost which is higher than social rent but lower than affordable rent – typically 70% of market rents. <p>Homes that do not meet the above definition of affordable housing, such as ‘low cost market’ housing, may not be considered as affordable housing for planning purposes.</p> <p>The adopted City of Derby Local Plan Review and earlier versions of the Part 1 Local Plan (Core Strategy) sought to secure a split of 80% social rent and 20% intermediate rent. Social rent provides greater affordability and so helps the most in need. But it is by its nature more expensive to provide and so likely to lead to fewer affordable homes.</p> <p>Viability studies carried out to support local plan policy have shown that requiring 80% of affordable homes to be for social or affordable rent does have a significant negative effect on overall site viability and provision of affordable housing.</p> <p>This explicit reference to an 80/20 percentage split has now been removed from the Publication version of the Plan. It is</p>
--	---

	<p>also made clear that the policy will be applied flexibly. In practice, recent S106 Agreements have secured higher levels of affordable housing than they otherwise would through agreeing different tenure mixes with lower levels of social rent – mainly in response to concerns over site viability.</p> <p>The current policy provides the right degree of flexibility for current market conditions. As worded, it allows for lower levels of social rent to be negotiated if this is the right way forward for a particular site. But it also allows for a higher proportion to be sought if site viability and evidence of need justify this. For instance, there may be a particular need for social rent rather than other forms of affordable housing.</p> <p>Recent consultation on the 'Publication' version of the plan has resulted in some comments that this approach will not be viable and some challenge to the affordable housing target of 30%, although less than was expected. For this reason, it is likely that the policy will remain as it is when the Plan will shortly be submitted for independent Examination.</p>
<p>Recommendation 3</p> <p>On a site specific basis, the Council should consider reviewing the number of "Lifetime Homes" required and give less priority to developing "Lifetime Homes" to "Affordable Homes" for large developments and consider a smaller number of specifically adapted dwellings.</p> <p>Lifetime Homes are very expensive to build and may include</p>	<p>Response</p> <p>'Lifetime Homes' are those which have been adapted in such a way that they can meet the changing needs of people over time. For instance, doorways and toilets are designed in such a way to make wheelchair access easy, even if the occupant does not currently use a wheel chair. Some of these adaptations are relatively minor and cheap to</p>

<p>adaptations that are not required by any future occupant. This requirement currently puts additional pressure on the S106 pot.</p>	<p>provide. Others, such as leaving space for a through floor lift can impact more significantly on both the overall layout of the home and on cost, bearing in mind these properties are not directly allocated to a person with a disability.</p> <p>Provision of 'Lifetime Homes' is an important way of securing equality of access to decent homes, although there is flexibility in precisely what modifications are sought. Officer experience, though is that 'Lifetime Homes' are not generally that expensive to provide and do not reduce the amount of affordable homes that are secured.</p> <p>However, that said, the issue may have become moot as the Deregulation Act has made the provision of accessible housing (including Lifetime Homes) a matter for the Building Regulations rather than by negotiation through Section 106 Agreements. This includes changes to Part M of the Building Regulations which came into force on 1 October 2015 and include both mandatory standards and separate but specific 'optional standards'.</p> <p>Optional standards can be imposed through planning conditions provided there is a suitable Local Plan policy in place. However, any deviation from national standards would have to be based on clear evidence that there is a specific local reason to do so. As these changes have only recently come into force, it is not yet clear what if any change to policy is needed. If this is the case, it is intended to pursue them through the Modifications process to the Plan.</p>
---	--

<p>Recommendation 4</p> <p>The Council should build on the existing 'partnership approach' to housing development and gauge appetite for an Affordable Housing Forum or similar group to form.</p> <p>Radleigh Homes suggested that the Council does not engage enough with its external partners with regards to affordable housing. More regular communication between the Council (planning, housing and regeneration), developers and Registered Providers to discuss the options on the use of the S106 pot for housing development sites would be beneficial.</p>	<p>Response</p> <p>Forums with developers to discuss issues such as affordable housing provision have taken place in the past and can be useful. It is recognised that the Council needs to be more proactive in working with housing providers to facilitate external investment.</p> <p>Council officers will therefore discuss this further with external partners to identify the best way to take this forward.</p>
<p>Recommendation 5</p> <p>A workshop/conference should be held to encourage more communication and partnership working between the Council, developers, landowners and Registered Providers to discuss options and ideas for S106 contributions and the delivery of affordable housing.</p> <p>See Recommendation 4.</p>	<p>Response</p> <p>See response to Recommendation 4.</p>
<p>Recommendation 6</p> <p>Derby City Council should consider entering into discussions with our neighbouring local authorities with regards to pursuing financial contributions in lieu for land outside the city to meet the city's affordable housing needs.</p> <p>Land identified for housing development outside of the city's boundaries to meet the city's need is somewhat out of the city's</p>	<p>Response</p> <p>Securing affordable housing from developments built just across the City's borders is growing in importance as Derby's urban area spills across its administrative boundaries. This must be sought through discussion with colleagues in South Derbyshire and Amber Valley.</p> <p>Financial contributions from schemes within neighbouring</p>

<p>control, as permissions will be given by neighbouring authorities. It may be appropriate for Derby City Council to seek a financial contribution towards off-site affordable housing provision within the city boundaries from developers applying to other authorities.</p>	<p>boroughs towards off-site schemes within the City are difficult to secure and can lead to poor quality and poorly located housing. A more effective approach is to seek nomination rights for Derby residents on properties built on sites outside the City.</p> <p>DCC Officers have sought these nomination rights on a number of schemes with some success. Greater devolved powers should lead to a more joined up approach to meeting housing need and the provision of affordable housing on a cross boundary basis.</p>
<p>Recommendation 7</p> <p>The Council should consider accepting off-site provision, or part off-site provision, of (or a financial contribution towards) affordable housing more frequently when viable on sites (as opposed to 'in exceptional circumstances') where the provision of affordable housing may not be appropriate to the site location. If pursued, the off-site provision should be in a more sustainable location.</p> <p>Some development sites may not be attractive for the provision of affordable housing, for instance if the site is largely inaccessible by public transport or located at a distance from public amenities. Clauses to ensure that the developer does not complete over a certain percentage of the on-site units prior to the completion of the off-site affordable housing units could be built into the S106 agreement. A split between some affordable housing provision on-site and some off-site could also be considered to increase site viability.</p>	<p>Response</p> <p>Paragraph 50 of the National Planning Policy Framework states that “where they have identified that affordable housing is needed, (local authorities should) set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.”</p> <p>So whilst the norm should be providing affordable on-site, there is already flexibility in the process to allow off-site contributions where there are genuine reasons to do so. Some developers may prefer to pay a sum of money in lieu of providing affordable housing in the belief this may help market their site, but there are good equality reasons why</p>

	<p>policy seeks to ensure provision 'within' sites as the norm. These include ensuring mixed and balanced communities within new sites and preventing the over-concentration of affordable housing elsewhere.</p> <p>There are very few sites that do not suit an element of affordable, hence the policy test of 'exceptional circumstances'.</p> <p>If there is genuinely a site that is not suitable for affordable housing, then our policies and procedures enable us to negotiate such off site provision. However, it is considered that the current approach of requiring provision of affordable housing to be provided on-site and to be well integrated within the development scheme as a whole should remain.</p>
<p>Recommendation 8</p> <p>The Council should consider making better use of our own brownfield sites to maximise affordable housing delivery. This could be in building our own affordable housing, in extra care provision, or in partnership with developers in delivering off-site provision.</p> <p>Some brownfield sites located in the centre would be ideally located to provide pockets of affordable housing. These sites could be used to help developers or housebuilders to maximise</p>	<p>Response</p> <p>The Council does look at its own land assets to support the delivery of affordable housing, has delivered a number of such schemes and will continue to do so. However, it does not have a large land bank of suitable sites.</p> <p>Officers are giving more thought to this and to how it might be made to work in practice. Linking a Section 106 Agreement to the provision of affordable housing on</p>

<p>and accelerate affordable housing delivery.</p>	<p>Council owned land will need to be considered very carefully. However, this approach may be especially suitable for dealing with sites with viability issues – as is often the case at the moment. It may be that in such cases, partial provision on site and partial provision on Council owned land elsewhere would be the best way forward.</p>
<p>Recommendation 9</p> <p>Derby City Council should lobby for additional grant subsidies for the provision of Extra Care facilities in order to make these developments financially viable for the developer.</p> <p>Extra Care can now be accepted as provision of affordable housing and can provide large numbers of affordable housing per development. However Extra Care housing is more expensive than speculative housing and does require additional external funding for the developer to make these developments financially viable.</p>	<p>Response</p> <p>Affordable Extra Care, which is rented at affordable or social rent and/or shared ownership, has always been designated as affordable housing.</p> <p>The Government does make additional grant subsidy available for specialist housing, but probably not sufficient to cover the actual subsidy requirement.</p> <p>Also, grant is only provided on S106 sites where additionality, (ie more affordable housing than designated through the S106 provisions), can be generated.</p> <p>It is agreed that lobbying the Government on these matters would be useful and this will be taken up.</p>
<p>Recommendation 10</p> <p>Derby City Council should lobby for additional grant subsidies for the provision of education and transport infrastructure (or affordable housing).</p> <p>Nationally funded schemes are needed to help either with the provision of affordable housing, or with the provision of</p>	<p>Response</p> <p>It is true that in the current economic circumstances, there is often insufficient money available in the S106 pot to fund necessary infrastructure as well as secure 30% affordable housing. However, 30% has been achieved without grant aid in the past when land values were higher.</p>

<p>education and transport infrastructure. The evidence suggests that the dependence on the S106 pot for delivering infrastructure requirements such as school expansion and school building, as well as off-site transport infrastructure and affordable housing is too much for developers to achieve. Success in achieving 30% affordable housing has only occurred at times when externally provided government grants have also been available.</p>	<p>The housing strategy set out in DCC's and South Derbyshire's Local Plans is ambitious and will require major transport and education infrastructure. There will be no where near enough money in the developments themselves to fund this entirely and so external funding is being sought. However, this will not necessarily in itself ensure more money is available for affordable housing as the call on the S106 pot for infrastructure works will still be significant.</p>
<p>Recommendation 11</p> <p>Additional work should be carried out to support the provision of affordable housing. This could include the acquisition/provision of land suitable for affordable housing development and the provision of subsidies to housing developers/landowners to deliver higher levels of affordable housing.</p> <p>It is currently highly unlikely that Derby will be able to meet affordable housing targets and the housing need outlined in the SHMAA. Any opportunities for the Council to further assist in meeting the affordable housing need of the city, particularly if the Council's economic position improves, should be taken as and when possible.</p>	<p>Response</p> <p>Affordable housing needs were never intended to be fully met through the planning system. The planning system is only one part of the solution, so any other work the Council can do to increase the number of affordable properties should be pursued.</p> <p>The Council is pursuing other options such as building on its own land assets and acquisition of private market schemes.</p> <p>The Housing Revenue Account has borrowing capacity following its self-funding settlement which has been earmarked toward the delivery of council housing.</p> <p>Recent changes within the Budget in respect of rent decreases have reduced the amount of resources, however.</p> <p>The delivery of affordable housing will become increasingly challenging within the current political environment.</p>

<p>Recommendation 12</p> <p>The School Admissions policies for schools in areas likely to be affected through large scale housing developments identified in the Derby HMA Strategic Housing Market Assessment should be reviewed prior to development commencing.</p> <p>Evidence suggests that schools taking in children from out of area and keeping these schools at capacity also causes a problem with site viability for housing developers. A more strategic approach should be taken in areas of expected high housing development to ensure that school places currently given to children out of area are made available for children within their own areas to free up capacity.</p>	<p>Response</p> <p>DCC's School Place Planning Team were consulted on this recommendation and comment as follows:</p> <p>It is not possible to 'reserve' school places in order to accommodate pupils from new housing developments.</p> <p>For Derby's Community Schools and Voluntary Controlled Schools, Derby City Council is the admissions authority and is responsible for deciding the admission arrangements for children at these schools.</p> <p>For Voluntary Aided, Academy, Trust, Free and Foundation Schools, the school governors are the admissions authority. DCC therefore does not direct the admissions policy for these schools.</p> <p>Parents are able to apply for places at up to three different schools. Catchment areas do not prevent parents who live outside the catchment of a particular school from expressing a preference for the school. Under the School Admissions Code, if a school is undersubscribed, any parent that applies must be offered a place. When oversubscribed, the Council must rank applications in order against its published oversubscription criteria.</p>