



Report of: The Director of Environment and Neighbourhoods and City Development

Meeting: Executive Board

Date: 13th February 2009

Subject: Waiving of Planning Contributions on 100% Affordable Housing Schemes

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

EXECUTIVE SUMMARY

This report sets out why the planning policy, of collecting financial contributions should not be applied in the normal way on schemes which have or which will receive grant funding from the Homes and Communities Agency (HCA) in the 2008/11 National Affordable Housing Programme, which provide 100% affordable housing.

The report explains the exceptional circumstances surrounding these types of developments and aims to justify why these schemes cannot contribute financially and still remain deliverable.

The Affordable Housing Strategic Partnership Board has been established by Executive Board in March 2007 and is responsible for the management of 31 hectares (77 acres) of Council owned land which has been transferred to the Board. Grant funding has been secured from the HCA in order to deliver the affordable housing on these sites and on other sites within Leeds.

This will also contribute to the targets as set out in the Local Area Agreement (LAA), as well as contribute to the creation of sustainable communities, by providing much needed affordable housing, together with contributing to the overall score for the authorities Comprehensive Performance Assessment (CPA). This report does not seek to prejudge the outcome of the planning application process. It remains necessary on a case by case basis to determine on the balance of material planning considerations whether applications should be approved in the absence of usual contributions. That will be a matter for the Plans Panel or Officers under delegated authority to consider.

1.0 Purpose of This Report

- 1.1 The purpose of this report is to seek endorsement of the views of the Director of Development of Environment and Neighbourhoods and Director of City Development that there should be a waiver of the planning contributions for Green Space, on schemes below 50 units, for schemes which have been funded via the 2008/11 HCA National Affordable Housing Programme, which will provide 100% affordable housing in accordance with the Council's priorities.

2.0 Background Information

- 2.1 In March 2007 the Affordable Housing Strategic Partnership Board was established with a remit to increase the delivery of affordable housing across the City. Thirty one hectares (77 Acres) of Council owned land has been transferred to the Board with the aim of delivering in the region of 1116 new units of affordable housing at a rate of 375 units a year. The Board has responded strategically at a national, regional, sub regional and city wide level by making land available for the development of affordable housing. It is anticipated that this approach will attract grant funding in the region of £37m, and private sector funding of £1,118m, over the next 6 years.
- 2.2 The first phase of sites (6 sites 2.2Ha) has been identified and made available. This was the subject of a bidding round to which Accent HA were the successful Housing Association appointed to deliver the affordable housing. The Housing Association has attracted £4.6m grant and £18.4m of private sector investment in order to deliver 190 units of affordable housing on Phase 1 of the sites.
- 2.3 As well as the developments which are progressing on the council owned sites, grant has also been made available by the HCA to a couple of other schemes within Leeds. These include the development on the Fairfields estate, Bramley and Holmsley Lane, Woodlesford. These developments are on council owned land but are not within the remit of the Partnership Board.
- 2.4 Affinity Sutton HA have also secured grant to build a 100% affordable housing scheme at Sutton Park in Halton, which is on land already in the ownership of the Housing Association, having been made available following clearance of obsolete properties as part of the organisations investment strategy.
- 2.5 Further allocations of grant may be made available within the 2008/11 Programme and it is requested that the same approach is adopted on those developments across the city as set out in this report.

3.0 Main Issues

- 3.1 The main issue is that the Unitary Development Plan policies are drafted on the basis that housing would generally be provided by private developers and affordable housing would be required as a proportion of the overall provision. Between 15% and 25% of each housing site, depending on the area would be expected to be provided as affordable housing, with the remainder as private market housing. In addition, these housing sites, depending on their size, would be expected to make provision for matters such as open space, education provision and public transport improvements to support the new population being created.
- 3.2 This provision generally takes the form of financial contributions, secured by way of a Section 106 planning agreement, although larger sites would be expected to

provide on-site open space. These contributions would be funded by the developer and off-set against the profits achieved from the sale of the dwellings.

- 3.3 The difficulty with sites that are designed as 100% affordable is that there are no private sales on the site and therefore no element of profit available to fund other contributions.
- 3.4 These housing sites would need to be considered against the UDP policies which require a number of matters to be addressed to ensure various provisions are made to meet the additional needs generated by the new population. Of most relevance to these schemes is the issue of Greenspace, which is required for all developments of over 15 units. As the schemes listed are below 50 units, there is no requirement for Public Transport and Education contributions .
- 3.5 All the schemes which are being funded via the HCA are below the 50 unit threshold and so the only relevant contribution to be waived is in relation to Greenspace.

4.0 Greenspace

- 4.1 Policy N4 requires that the provision of Greenspace be made to ensure that residents have appropriate access to local amenity space, local recreation areas, neighbourhood parks and major city parks. The methodology for achieving this objective is set out in the SPG: *Greenspace relating to new housing development 1998*.
- 4.2 The ratio of 0.2 hectares of green space per 50 dwellings (pro rata at 0.004ha per dwelling) is the minimum standard to be applied to all sites of greater than 10 dwellings, in reality; it is not practical to provide open space provision on small irregularly shaped sites such as many of those being proposed in Phase 1 of the sites. For example on a site of 30 units the requirement of green space would be 0.12ha (ie 30x0.004ha). A developer would therefore be requested to pay the costs of constructing an area of 0.12ha of green space off site, plus a sum for maintaining that green space to cover the Council's costs of looking after such sites.
- 4.3 Where it is agreed that the green space may be provided off-site by way of a commuted sum, such monies are invested in the same community area in which the funding development is located , or an adjoining community area if there is a higher priority green space scheme, as determined by ward members and the local community. The funds must be spent on the purposes for which it was paid by the developer (green space) and either provide or enhance green space as close as possible to the originating scheme in order to comply with legislation governing S016 contributions.
- 4.4 The level of contribution paid by a developer is calculated by applying nationally recognised industry rates. The rates are published annually and are designed to reflect the average cost of constructing landscaping schemes across the country.
- 4.5 Although these sites will not have any useable green space within the development due to the size, the layout and appearance will be subject to normal planning requirements and there will be some limited amenity space provided.
- 4.6 The design standards for layouts and amenity areas will be well designed and the developer will be responsible for the cost associated with the amenity areas as part of their normal obligations. There will not be any obligation on the Council to cover any green space contributions either offsite or within the development.

5.0 Financial viability

- 5.1 The Housing Associations which have been awarded grant by the HCA are all 'not for profit' registered social landlords. All the sites are for 100% provision of affordable housing, social rent and shared ownership. Rent levels charged by the HA are fixed and based on a formula to ensure affordability for tenants. There are no homes for outright sale and therefore no profit or cross subsidy.
- 5.2 It is a condition of grant to build all new homes to Homes and Communities Agency Design and Quality Standards. These standards have been increased from previous years recognising the use of public sector funding and now far exceed building regulations and include compliance with the code for sustainable homes, building for life and life time homes.
- 5.3 The grant secured from the Homes and Community Agency equates to approx 35% of the total cost. The remainder of the capital costs of the construction works and acquisition and on costs are made up of private finance raised by the HA and subsidy provided by the HA.
- 5.4 On all of the sites the acquisition cost has been £5,000 per unit (apart from Affinity Sutton HA who already owned the site). This has been applied across all local authorities within the Yorkshire and Humber Region at the moment this amount is not considered to be a great reduction from the open market valuation. The HA is then expected to fund the cost of any remediation or abnormal works. Only 35% of the remaining cost is covered by the grant from the HCA.
- 5.5 Attached at **Appendix A** is an example a typical scheme of 24 units; taken from actual costings for a scheme at Farrow Rd in Armley. This demonstrates the costings and subsequent income received on a development which will provide:
- 10x3bed 5person houses with garages for shared ownership
 - 6x3bed/5persons houses for social rent
 - 8x4bed/8 person houses for social rent
- 5.6 The typical amount of contribution for greenspace on this development would be in the region of £2,266 per unit equating to a requirement of £54,384
- 5.7 It can be seen that after the grant and sales receipt are removed, the HA has a balance of £1,934,174 to fund. Although rental income of £77,946 per annum is received, this also has to cover management, maintenance, repairs and staff costs.
- 5.8 It can be seen from this appraisal that the HA are only making 0.02% on their costs. Generally a developer would not build unless a return of approx 18 - 20% was guaranteed.

6.0 Implications for Council Policy And Governance

- 6.1 The delivery of affordable housing is a key priority of the Strategic Affordable Housing Partnership Board. The provision of affordable housing is a key priority of the Council and will ensure that the LAA targets can be achieved.
- 6.2 Planning Policy is set out in the UDP and is supported by Supplementary Planning Guidance and Supplementary Planning Documents. It is a requirement that planning applications be determined in accordance with the Development Plan

unless material considerations indicate that an alternative decision should be reached. To do otherwise would undermine the Council's adopted policy.

- 6.3 However, Circular 5/05 requires that a level of flexibility is essential when considering the need for contributions to ensure that requirements remain reasonable. It states that 'In some instances, perhaps arising from different regional or site-specific circumstances, it may not be feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable'.
- 6.4 In such cases, and where the development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers and by the public sector infrastructure providers in its area supported, for example, by local or central taxation. In such cases, decisions on the level of contributions should be based on negotiation with developers over the level of contribution that can be demonstrated as reasonable to be made, whilst still allowing development to take place.
- 6.5 Affordable housing provision is clearly a high priority and its provision, particularly at a time when greatly reduced levels of private development are taking place, is clearly to be supported, which is why it is key Council objective. To allow such development without meeting other policy requirements would, however, make it more difficult for the Council to resist other proposals from private developers to develop without paying such contributions.
- 6.6 However, what is being proposed is in effect an acceptance of the growing importance of the requirement for affordable dwellings. These developments would be over-supplying affordable housing in terms of policy requirements and in return they are seeking a reduction in other requirements. There is no doubt that the value of the affordable housing provided far exceeds the value of the lost contributions.
- 6.7 The purpose of the Local Planning Authority in seeking planning obligations is to make acceptable proposals which would otherwise be unacceptable and thus likely to be refused. The sort of planning obligations referred to in this report are important elements of what might be regarded as 'place making', helping to ensure that we deliver high quality and sustainable communities supported by appropriate infrastructure. Such considerations cannot be lightly dismissed
- 6.8 As this report already indicates both national guidance and the Council's own planning policies do allow consideration of viability in determining whether to seek planning obligations. It is clear that 100% affordable housing schemes are intrinsically unviable given the level of subsidy involved.
- 6.9 It is important to recognise that such decisions should not be seen as prejudging the outcome of planning application process. Applications for 100% affordable housing will need to be judged on a case by case basis in light of the requirements of the development plan and other material planning matters. Such decisions properly vest in the Plans Panel or with Officers under delegated authority.
- 6.10 Nevertheless this report clearly points to the importance attached to delivering affordable housing at both a national and local level. Also the Council's proposals for 100% affordable housing schemes are perhaps of even greater significance at a time when little can be expected to come forward through the traditional private sector route. As this report demonstrates only modest contributions can be expected from these schemes towards other community benefits and both

financially and strategically it is considered that there is greater benefit and priority to be attached to affordable housing provisions in such cases

- 6.11 Executive Board is asked to endorse this view so that it can be taken into account by Plans Panel as applications are considered.

7.0 Legal and Resource Implications

- 7.1 Legal have been consulted and have confirmed that both national guidance and the Council's own planning policies do allow consideration of viability in determining whether to seek planning obligations. Circular 5/05 requires that a level of flexibility is essential when considering the need for contributions to ensure that requirements remain reasonable.

8.0 Conclusions

- 8.1 In order to deliver the councils strategic priority to increase the numbers of affordable housing and meet the LAA targets as well as contribute to the creation of sustainable communities by providing much needed affordable housing, in addition to substantial inward investment and employment, a different approach to the application of planning policy is desirable.
- 9.2 The development of 100% affordable housing schemes has clear difficulties with regard to viability. There is a danger that 100% affordable housing schemes will be rendered unviable if the normal planning obligations are sought. National and local policy recognises that this can be properly taken into account in the determination of planning applications.
- 9.3 The failure to deliver affordable housing targets would have major implications for the authority to retain its current CPA rating if LAA Targets are not met.
- 9.4 It remains necessary on a case by case basis to determine on the balance of material planning considerations whether applications should be approved in the absence of usual contributions. That will be a matter for the Plans Panel or Officers under delegated authority to consider.

10.0 Recommendations

The Executive Board is asked to agree that:

- The usual contribution requested for green space is waived on schemes below 50 units which are providing 100% affordable housing (in accordance with the planning definition of affordable housing) subject to the individual merits of each scheme being considered at Plans Panel.
- This is to be applied to schemes which are grant funded via the HCA in the 2008/11 National Affordable Programme
- That this report be forwarded to the Plans Panel for information
- That the position be reviewed in 12 months time

Background Papers

The Affordable Housing Plan – ‘Making the Housing Ladder Work’ - 5th November 2006

Establishment of a Strategic Partnership to Deliver Affordable Housing - 14th March 07

Implementing the Affordable Housing Plan - 14th June 2007