

Agenda Item No:

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**Report of :** Director of City Development

**Report to :** Scrutiny Board (Housing and Regeneration)

**Date:** 29 January 2013

**Subject:** Explanation of Section 106 affordable housing bench mark prices.

Are specific electoral Wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

## Summary of main issues

1. This report responds to the request from Scrutiny Board (Housing and Regeneration) to provide a detailed explanation of how the price at which the affordable housing units (required as part of a Section 106 (S106) agreement) are expected to be sold at to a Registered Provider (RP) is arrived at in Leeds.

## Recommendations

2. Scrutiny Board are requested to note the information contained within this report.

## 1 Purpose of this report

- 1.1 The purpose of this report is to provide a detailed explanation of how the price at which an affordable housing unit is sold to a Registered Housing Provider (RP) as part of a S106 agreement in Leeds is calculated.

## 2 Background information

- 2.1 Affordable housing units delivered via a S106 agreement are without grant funding.
- 2.2 On all residential developments, of 15 units or more, the developer is required to provide a proportion of the development as affordable housing for social rent and submarket rent/sale.
- 2.3 The proportion of social rent and submarket housing is dependant on the area that the scheme falls within. Submarket housing can include shared ownership, discount for sale and properties let at a level below market rent.
- 2.4 Affordable housing policy comprises both the Informal Housing Policy 2008 and Supplementary Planning Guidance (SPG) (the SPG, Feb 2003 and SPG Annex July 2005, revision April 2012). An interim affordable housing policy was also approved by Executive Board and came into effect in June 2011, and lowered the affordable housing targets in 4 out of 5 housing market zones, as a result of an Economic Viability Assessment. The interim policy did not change the way the benchmark prices were calculated.
- 2.5 Under the conditions of the Section 106 (S106) agreement the developer is obliged to sell these affordable units to a RP at no greater than the benchmark prices which are set out in Planning Policy within the Supplementary Planning Guidance 3 (SPG3)(2003) Annex (2012).
- 2.6 The methodology for the setting of benchmark prices in Leeds has been in place for a number of years. Leeds has a separate calculation methodology for the benchmark price for a social rented unit, and that for a submarket affordable unit.
- 2.7 The current benchmark figures for 2012-13 are:

Property Type	Maximum Sale Price <b>Social Rent</b> per m2	Maximum Sale Price <b>Submarket</b> per m2
Houses	£520/sqm	£984/sqm
Flats	£520/sqm	£1,230sqm
Flats City Centre	£520/sqm	£1,476/sqm

- 2.8 It should be noted that Leeds' benchmark prices are designed to ensure that our affordable dwellings are genuinely affordable to households in need. A large proportion of households in Leeds are on low or very low earnings and it is important that the rents/prices of new affordable housing are reasonable for low earners and reasonable compared with the rents/prices of existing affordable housing in Leeds. Whilst suggestions from housebuilders (ie that they could provide more affordable dwellings if the level of affordability was reduced) might seem appealing, this should not be at the expense of putting the price of new affordable housing beyond the reach of low earning households.

### How the bench mark figures are calculated in Leeds

- 2.9 The **submarket benchmark** price (price per square meter) is determined via a calculation which uses average earnings of various household compositions in the

city and considers the price that a household with earnings in the lowest 25% could afford to purchase or rent.

2.10 The benchmark prices reflect the average earning of the past year and benchmark prices are updated yearly (every April) to reflect changes in average earnings.

2.11 The calculation is made up of a number of factors:

- Average household earnings: Using data from the Office of National Statistics, specifically the Annual Survey of Hours and Earnings, a calculation is undertaken to determine the average earnings for a typical household in Leeds. In this way the lower quartile earnings are established, which in 2011 was determined as earnings of £25,000 or less.
- It is assumed that a mortgage is affordable to an applicant if it is no more than 2.75 times their earnings.
- An applicant is expected to have a 5% deposit to purchase a house.
- Average dwelling sizes of 50m<sup>2</sup> (city centre flats); 60m<sup>2</sup> (flats elsewhere) and 75m<sup>2</sup> (houses) are utilised.

2.12 The average household income is then multiplied by 2.75 to arrive at the households potential to obtain a mortgage which is affordable and a figure to represent the 5% deposit is also applied. This results in a figure which represents the level at which a household with lower quartile earnings could afford to purchase a property. In 2011 this was just under £74,000. This figure is then divided by the three average house types (house, flat, and city centre flat) to provide an affordable price per square meter for each property type.

For example for 2012/13 submarket benchmark figures:

- An average house (75m<sup>2</sup>): £73,800 / 75 = £984 per m<sup>2</sup>
- An average flat (60m<sup>2</sup>): £73,800 / 60 = £1,230 per m<sup>2</sup>
- An average city centre flat (50m<sup>2</sup>) : £73,800 / 50 = £1,476 per m<sup>2</sup>

The price per square meter can then be applied to different property sizes. The developer is required to sell the submarket units to a RP at no greater than the submarket benchmark price.

2.13 The **social rent bench mark** figure of £520 per m<sup>2</sup> was previously arrived at in consultation with local housing associations and the Homes and Communities Agency, as a price which enables a RP to purchase the unit from a developer and then let and manage at a social rent. The developer is required to sell the social rented units at no greater than the social rent benchmark price or at a price that enables the RP to charge the social rent, although the price agreed is most often at the benchmark price.

### 3 Other Local authorities

3.1 The price at which an affordable housing unit should be sold to a RP is set by local, not national planning policy, hence there are a variety of approaches across other local authorities. Appendix One provides details of the methods used by other neighbouring local authorities in respect of transfer prices.

3.2 A number of local authorities have chosen to set benchmark figures. For example, Harrogate Borough Council and Craven District Council recently introduced a

similar transfer method to Leeds, using average earnings and average house prices to calculate a price per m<sup>2</sup> for all affordable housing. They have taken an average 2 bed property (at 70 sq m) and a transfer price of £77,000 (representing a 50% share of an average house price for this type of property plus a 10% deposit) to arrive at a calculation of £1,100 per sqm which is applied to the sale of both social rented and submarket units by a developer to a housing association.

- 3.3 Other benchmark methods applied by local authorities include, a percentage discount from the open market value. In Bradford housing associations pay (on average) a transfer price which represents a 35% discount from the open market value.
- 3.4 A number of local authorities have made the decision to allow negotiation on transfer prices to the RP and the developer. This gives the RP freedom to consider what price they are able to pay for the unit in order to re-provide it as either a social rented property, or an affordable property for rent or sale.

#### **4 Applying the benchmark prices.**

- 4.1 There are a number of submarket affordable housing models, for sale and rent including: shared ownership (part rent, part buy), discount for sale and submarket rent (up to 80% market rents).
- 4.2 Where the unit has been acquired by a RP as a submarket sale unit, they are required to sell this unit to an applicant who is unable to afford to purchase the property on the open market.
- 4.3 Housing associations can pass on the affordable housing unit they have purchased from the developer to an applicant in a number of ways:
  - Shared ownership lease based on the HCA Model. Using the open market value the RP offers for sale the unit to a applicant on a 25%, 50% or 75% basis. The applicant then pays a rent at a rate of up to 2.75% of the unowned share per annum to cover the RP mortgage costs for the remaining proportion it owns. The applicant can purchase further shares of the property at the open market value (eventually owning the property outright).
  - Shared ownership variance shared ownership lease. This is a variation on the above model, the RP sells the property to an applicant at the price they purchased it from the developer (plus 5% to cover costs). A calculation using the price paid, and the open market valuation is undertaken to establish what share of the property the applicant now owns. For example, if the RP purchased the property at £90,000 they may add £4,500 to the price to cover their costs they then sell the unit to an applicant at £94,500. If the market value of the property is £150,000 by purchasing the property at £94,500 the applicant owns 63% of the property. The applicant can purchase further shares from the RP on the open market (eventually owning the property outright).
  - Discount for sale model: the RP offers the unit to an applicant on either a 25%, 50% or 75% discount of the open market value. Alternatively the RP can sell the unit to the applicant at the price they paid the developer (plus 5% to cover costs), and a calculation is then undertaken to establish what discount this price represents of the open market value of the property. On a discount sale model, there is no rent to be paid on the unowned equity, a covenant is included the land sale to

ensure that the property is sold at the same percentage discount of the open market at point of sale.

- 4.4 The majority of housing associations in Leeds prefer to use the HCA shared ownership model and offer shares on a 25%, 50% or 75% rate. Obtaining a mortgage has become much more difficult, but in particular banks are now more reluctant to lend on a discount for sale model due to the assumed risks in maintaining the discounted covenant (in a time of falling house prices). As such, the discount for sale model is not a model widely used by RPs at present.
- 4.5 Where a RP has acquired properties for social rent, the rents charged by a RP are determined through the national rent regime.
- 4.6 To ensure that the property remains affordable for future applicants (not just the initial purchaser) conditions are included within the sale of all the affordable housing models. For example, if the property was purchased at a discount from the open market, it must be sold at the same percentage discount. Additional shares purchased by the applicant (in respect of a shared ownership property) are at the open market value. If a shared ownership property is sold by the applicant before they staircase out (purchase the remaining shares to own the property outright) it must be sold on to another applicant on a shared ownership basis.
- 4.7 Units remain affordable housing in perpetuity therefore either via a section 106 on the property (discount for sale model) or by recycling capital receipts from the sale of the property (staircase receipts) in to future affordable housing provision. Regulation by the HCA provides assurance that any stair casing receipts (such as on shared ownership units) are recycled by the RP into further affordable housing provision for the City.
- 4.8 Benchmark figures are set in planning policy Supplementary Planning Guidance (SPG) (the SPG, Feb 2003 and SPG Annex July 2005, revision April 2012). Benchmark figures are updated on an annual basis. The implementation of benchmark figures as part of planning applications is set within the section 106 agreement, which specifies the price which a developer should sell the affordable housing units to a Housing Association. Any breach of that condition is dependant upon the wording of the section 106 and enforcement of the section 106.
- 4.9 The importance of compliance with the conditions of the S106 agreement in terms of adherence to the benchmark prices has been stressed to RPs operating within the city. However, as a result of changes in the funding regime which requires RP to raise more finance against their own stock holdings, and RPs ability to charge the new affordable rent model, instances of RPs willing to compete to secure stock in higher value areas is now more common place.

## **5 Next Steps**

- 5.1 A review of current Supplementary Planning Policy which replaces the current SPG 2003 with a more up to date Supplementary Planning Document to align with the Core Strategy and the Draft Community Infrastructure Levy (CIL), is being undertaken. A draft SPD is currently being prepared and adoption of a final SPD is programmed to take place in late November 2013. As part of this process the methodology for benchmark figures will be examined.

## **6 Corporate Considerations**

### **6.1 Consultation and Engagement**

6.1.1 This report provides background information only and therefore no consultation has taken place.

### **6.2 Equality and Diversity / Cohesion and Integration**

6.2.1 There are no direct issues arising from this report.

### **6.3 Council Policies and City Priorities**

6.3.1 Increasing housing choice and availability are priorities for the Council, and ensuring affordable housing units are acquired on S106 schemes is a Planning Policy requirement.

### **6.4 Resources and Value for Money**

6.4.1 This report has no direct resource implications.

### **6.5 Legal Implications, Access to Information and Call In**

6.5.1 There are no legal obligations associated with this report.

### **6.6 Risk Management**

6.6.1 There are no risk management issues with this report.

## **7 Conclusions**

7.1 This report describes how affordable housing benchmark prices for the transfer of S106 affordable housing for social rented and submarket sale/rent to a RP in Leeds are calculated.

7.2 The submarket benchmark figure is established by calculating the price a applicant can purchase a property at (per sqm), using average household earnings, a mortgage multiple of 2.75 plus a 5% deposit and average dwelling sizes.

7.3 The social rent benchmark price represents a price (which has previously been agreed with the HCA and local housing associations) that a RP can purchase the property from the developer and ensure it is managed and let on a social rent.

## **8 Recommendations**

8.1 To note the contents of this report.

## **9 Background documents<sup>1</sup>**

9.1 None

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<sup>1</sup>The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

## Appendix one: Approach to affordable housing transfer prices by Local Authority

Local Authority	Transfer prices methodology
Wakefield District Council	Negotiation between the developer and the housing association. Approximately 50% of the open market value for those units purchased for shared ownership, and approximately 35-40% of open market value for those units purchased for rental units.
Sheffield City Council	Transfer price per m2 for each housing market area. This is based on what a RP could pay for a social rented unit and what is an affordable price in that area. Actual figure is a blended average based on a social and intermediate split. They are decided on a case by cases basis, and written into the Section 106 agreement thus governing what the RP pays per unit.
Bradford Metropolitan District Council	The cost of the affordable housing to a RP is calculated on a 35% discount of the open market valuation for the social rent or submarket unit.
Harrogate Borough Council and Craven District Council	A benchmark price of £1,100 per sqm has been introduced as the transfer price for all affordable housing units sold to a RP under a S106 agreement .
Rotherham Metropolitan Borough Council	Developers approach housing associations directly to negotiate. Currently social rented units in Rotherham are transferred at around 45% to 48% of the open market value, and shared ownership units at 55%.
City of York Council	Developers approach housing associations directly to negotiate, prices are not fixed.
East Riding of Yorkshire Council	Developers approach housing associations directly to negotiate on a basis of charging social or affordable rent (as specified in the S106) without grant.
Scarborough Borough Council	Have set guidelines in their SPD as to what level of transfer prices developers can expect from housing associations. These prices are based on what an applicant can afford to purchase/rent a property at and what a RP's can afford to purchase the property at, (having calculating the revenue stream which will determine their borrowing capacity). A table of indicative current prices that RPs are considered able to pay developers for a range of standard house types which are to be made available for social rent and affordable rent is outlined in their SPD. In the case of other Intermediate Affordable Housing products, such as low cost home ownership, developers are expected to sell the units to RPs at a prices which enables the RP to make these homes available at an affordable level.