

Cabinet Report



Listening Learning Leading

Report of Interim Head of Development and Regeneration

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To: CABINET

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Affordable Housing – Allocating Section 106 Commuted Sums

Recommendations

- (a) To note the current position regarding the affordable housing delivery programme.
- (b) To approve the framework (attached at appendix one) to evaluate and prioritise the spend of commuted sums (S106 monies) received by the council in lieu of the on-site delivery of affordable housing, in order to enable the provision of further affordable homes.

Purpose of Report

1. To update Cabinet on the recent success and current position regarding the affordable housing delivery programme.
2. To propose a framework to evaluate and prioritise spend of commuted sums (S106 monies) received by the council in lieu of the on-site delivery of affordable housing, in order to enable the provision of further affordable homes.

Corporate Objectives

3. The 2016-2020 Corporate Plan sets out a strategic objective for “Homes and jobs for everyone”. The draft Corporate Plan proposes “Providing the homes people need”.

Background

4. South Oxfordshire District Council has a strong and highly successful track record in delivering affordable homes - both rented and low-cost home ownership (affordable housing is defined by National Planning Policy Guidance). The Affordable Housing team works with a wide range of organisations, public bodies and individuals, to meet the council's affordable housing objectives. Although planning policy sets out the council's requirement for affordable housing, a significant amount of work is carried out by the Affordable Housing team to ensure that affordable homes are delivered successfully, and to high standards of design and quality to meet the needs of local residents. Achieving this is often the result of complex discussions and negotiations with housing developers and registered housing providers.
5. In the last three successive financial years, the numbers of new affordable homes achieved has increased year on year, to provide well in excess of 1,000 new affordable homes for local people, as illustrated below:

2017/2018 – **240** new affordable homes (11 social rent)
 2018/2019 – **382** new affordable homes (2 social rent)
 2019/2020 – **517** new affordable homes (13 social rent)

Total: **1,139 new affordable homes**
6. The current financial year (2020 – 2021) brings with it an exceptional challenge due to the Coronavirus pandemic. We saw the temporary closure of almost all construction sites at the end of March 2020. Although now mostly restarted, it is likely that sites may deliver at slower rates due partly to the disruption in supply chains and additional health and safety requirements now in place on sites. Officers are monitoring Registered Housing Provider (RP) delivery projections on a regular basis, but it is likely 2020-21 will see a temporary downturn in delivery.
7. In order to address this downturn in delivery the release of additional funding to providers of affordable housing is being brought forward through releasing commuted sums held by the council.
8. There are occasions when the council accepts financial contributions from developers, in lieu of affordable housing on site. The council has currently received approximately £4.3 million which must be spent on the delivery of new affordable homes. There are time restraints on spending this funding and for a fair and transparent allocation, a value for money assessment criteria and spend procedure needs to be established.
9. To date, relatively little (£430,000 used for an acquisition programme of 22 units in 2007) of the funds has been spent.
10. Officers suggest that applications are assessed against a value for money criteria, including scoring against proposed rent levels and environmental impact. A draft outline and assessment criteria are attached as appendix one to this report.
11. It may be possible for commuted sums to also be combined (in most cases) with other forms of public subsidy, such as the Oxfordshire Housing and Growth Deal (An Oxfordshire-wide assessment criteria has already been developed for Housing and Growth Deal top-up application assessment), to enable projects to proceed where there may otherwise be a funding shortfall.

Options

12. No other alternative options are suggested at this time.

Financial Implications

13. Any council decision that has financial implications must be made with the knowledge of the council's overarching financial position. The position reflected in the council's medium-term financial plan (MTFP) as reported to Full Council in February 2020 showed that the council was due to receive £2.2 million less in revenue funding than it planned to spend in 2020/21 (with the balance coming from reserves including unallocated New Homes Bonus). This funding gap was predicted to increase to over £6.5 million per annum by 2024/25 before recent events. These include delivering a response to the Coronavirus and planning for further changes in Government Grants. Latest estimates show the council funding gap could increase by in excess of £1 million in 2020/21 which could worsen further in the medium term due to delayed changes to business rates income. Every financial decision will be made in cognisance of the need to eliminate this funding gap during the next five years.
14. The provisional capital programme approved as part of the Budget report to council on 13 February 2020 includes an Affordable Homes Delivery Plan (Reference 317, Appendix D.1) with estimated expenditure of £3.665 million towards the Oxfordshire Affordable Housing Programme (OAHF).
15. S106 contributions held by the Council at 31 March 2020 for the provision of Affordable Housing are £3.883 million.

Legal Implications

16. The principle of the council providing funding for third parties to deliver affordable housing in the district utilising S106 contributions is permissible. However the funding agreement flowing from any grant application process needs to include robust tailored terms which ensure that the providers of the affordable housing are required to deliver the housing, within an agreed timeframe, or to repay the funding to the council with interest and ascribes particular affordable housing developments to particular pots from given S106 agreements, and guarantees compliance with any specific conditions and within the specific timescale stated in the source S106.
17. This would be so that upon request to the council from the original S106 developer for repayment, the relevant time having expired, the council could either produce evidence that the affordable housing had been provided or alternatively, if not, be in a financial position to return it.

Risks

18. Monies collected in lieu of affordable housing on site, must be spent within time limits specified in the relevant S106 Agreement. This is normally a ten-year period, although it should be noted that some contributions held by the council will need to be spent within the next three years. Unspent contributions must be returned to the developer.
19. Each development project will carry its own specific risks. These will be addressed as each individual project is brought forward for funding and approval.

Conclusion

20. Officers have provided this report to update Cabinet on its existing affordable housing programme.
21. Cabinet is asked to consider the framework attached at appendix one to this report, to evaluate and prioritise the spend of commuted sums (S106 monies) received by the council in lieu of the on-site delivery of affordable housing, to enable the provision of further additional affordable homes in the district.

Appendix 1

S106 Commuted Sum Spending Framework

Introduction and background

The Council seeks the delivery of affordable housing on-site where required by planning policy. There is a small number of exceptions to this requirement, where the Council may accept a financial contribution in lieu of the on-site delivery of affordable housing. In most cases, this is where the percentage requirement of affordable homes on a site does not equate to a whole number. A financial contribution is therefore taken for the 'part unit'.

There may be exceptional cases where a financial contribution is accepted by the council in lieu of any on-site affordable housing delivery. Such cases must provide a robust justification for why the affordable homes cannot be delivered on site. The decision to accept payment instead of on-site delivery will be at the council's discretion.

Monies collected in lieu of affordable housing are to be used to enable the delivery of new affordable housing across the district. The council will prioritise opportunities which meet some or all of the objectives set out in this document.

Funds will be used to offset the capital cost of affordable housing delivery only. Associated on-costs such as consultancy fees etc, will not be covered.

All contributions collected relate to specific developments. The council will endeavour to reinvest funds within the parish from which the monies derived. However, as spend is time limited, and opportunities to invest may not always arise within those time constraints, the council will use monies where opportunities meet its objectives, including through the pooling of contributions.

Definition of Affordable Housing

Affordable housing is defined in the National Planning Policy Framework (NPPF) Annex 2.

Eligibility criteria and grant funding objectives

The purpose of grant funding is to deliver new, high quality, affordable homes. Grant cannot be applied to enable tenure switching, or for the rehabilitation or upgrading of existing dwellings. In considering applications for the grant funding of new affordable housing, the council will consider the following: -

Affordability

The district is an area of very high land values relative to much of the UK, and this directly impacts on house prices and rents. Affordability will be a key consideration in the evaluation of applications for grant.

Rented housing

In addition to meeting the National Planning Policy Framework (NPPF) definition of affordable, the council will also expect rents to be set significantly below the maximum permissible 80 per cent of market rent for a given area. Social Rent levels are considered to be highly desirable in order to make homes genuinely affordable to households with low to moderate incomes.

Low cost home ownership

There has traditionally been strong demand for shared ownership homes in most parts of the district. The council will also consider alternative models of low-cost home ownership where it can be demonstrated (in addition to NPPF compliance) that they constitute a genuinely affordable opportunity which may assist lower income households to access the housing market and offer a competitive alternative to the traditional shared ownership model.

Environment

In 2019 the council declared a climate change emergency. It is important that any new housing we fund reflects this through innovative design, construction, and low, zero, or negative carbon footprint.

Any additional costs associated with the delivery of such homes will need to be quantified, and should not impact on affordability through the charging of higher rents.

Good quality design and low environmental impact, including the use of local SME construction companies will be considered alongside affordability in the evaluation of grant funding applications.

Types of homes and location

There is high demand for affordable housing across the whole district. However, some parts of the district see greater demand due to the presence of larger settlements, facilities and infrastructure. Equally, some rural settlements present fewer opportunities or may have exceptionally high land values.

The council will evaluate opportunities for the delivery of new affordable housing on a case by case basis, taking into account affordability and innovation, but will prioritise areas where demand is significant and in locations which are considered to be sustainable.

There is demand for a wide range of dwelling types. Again, opportunities will be evaluated on a case by case basis, taking into account local, as well as district-wide needs.

In addition to high quality and innovative design, all homes funded with the assistance of grant must meet the nationally described space standard.

Whilst the overwhelming demand is for general needs family accommodation, the council is keen to support the provision of specialist accommodation where demand for such accommodation can be demonstrated. This could include various forms of supported housing.

Eligible bodies

The council will work with housing providers to help achieve its ambition to meet the demand for high quality, affordable homes. In the majority of cases, the council will expect the grant claiming body to be a Registered Provider, although it will also give consideration to applications from community groups such as Community Land Trusts, and other delivery vehicles, where they can demonstrate viable projects and sound financial standing. Applications from local authority housing delivery vehicles will be considered. Such vehicles and must apply, and be assessed, in the same way as any other body in order to ensure a fair and transparent process.

Applying for grant

The council does not specify a fixed level of grant per unit but will subject all applications to a value for money assessment. Applications must be accompanied by a viability appraisal to demonstrate why grant is required, together with details of how the project delivers on affordability, sustainability, and the meeting of need as described above. The acceptance of applications for, and the awarding of grant will be at the council's discretion.

Where permitted, the combining of other forms of subsidy such as recycled capital grant funding (RCGF) and Oxfordshire Housing and Growth Deal funding will be encouraged.

Before applying for grant, prospective applicants should contact the council's Affordable Housing Team in order to discuss their proposals, and to establish if such proposals are likely to be supported.

A bid pro forma must be filled out by all grant applicants. This will be used to assess applications against the criteria above.

Administration and monitoring

If approved, the recipient organisation will be required to enter into a funding agreement with the council. This will set out the detailed terms on which the grant is to be made available and will ensure public funds are properly safeguarded.

Unless special circumstances can be determined, a project can claim 80 per cent of the total grant agreed at commencement of the development. The second and final grant payment of 20 per cent can be drawn down at practical completion. The recipient will need to provide documentary evidence that each of these stages have been reached.

All affordable housing delivered with the use of grant monies must be delivered as affordable housing in perpetuity. In the case of low-cost home ownership, any receipts

arising as a result of staircasing to full ownership must be reinvested within the district to contribute to the further delivery of affordable homes.

Timetable

Availability of funds may vary at different times according to commitments and income. For Year 1 of this programme, the following timetable* will apply: -

1 April 2021 – Applications invited

30 June 2021 – Application cut off

1 September 2021 – Successful applications confirmed

*Indicative only

Proposals presented during the current financial year (2020/21) may be brought forward earlier in exceptional cases and subject to budget approval.

Summary

The purpose of the council's commuted sum spend programme is to ensure that monies collected in lieu of the on-site delivery of affordable homes are employed to assist with enabling further supply.

The grant funding will be directed at affordable housing projects which would not otherwise be financially viable without additional capital subsidy.

In considering grant applications, the council will consider three key elements in addition to overall value for money, being affordability, low energy (both in use and construction), and the appropriate type of home to contribute to meeting demand according to location.