

Scrutiny Committee Report



Report of Head of Health and Housing

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Adoption of the Council's Tenancy Strategy

Recommendation

Scrutiny committee is asked to consider the draft Tenancy Strategy, attached as an appendix to this report, and to provide cabinet with its views prior to cabinet considering a final draft of the strategy for adoption

Purpose of Report

1. The council is currently consulting on a draft Tenancy Strategy. This is a new statutory duty required in the Localism Act. The consultation runs until the 1 March. On conclusion of consultation a proposed Tenancy Strategy will be submitted to cabinet for final approval.
2. The main focus of the strategy is Registered Providers, the vast majority of which are housing associations working across both South and Vale council areas. To achieve consistency of approach, officers propose that the tenancy strategy should be a joint strategy across South and Vale.
3. This report invites the scrutiny committee to consider the draft strategy and submit its views to cabinet for consideration.

Strategic Objectives

4. The report relates to the council's strategic objective of meeting housing need.

Background-what is a Tenancy Strategy

5. The Localism Act 2011 enables councils and Registered Providers (social landlords including Housing Associations) to allocate and manage affordable housing in different ways so that it is better targeted at local priorities and requires less public subsidy to develop new housing.
6. As part of the governance of these new freedoms the Act places a statutory duty on councils to publish a Tenancy Strategy which should describe the matters to which Registered Providers must 'have regard to' in developing their policies on tenure and rent.
7. The document has an important function both for the councils and for Registered Providers.
8. For the councils' the strategy firstly enables us to offer a clear statement on the issues of security of tenure and rent levels in the districts and set clear benchmarks against we can judge the policies of Registered Providers that seek to work in the districts. Secondly it is also a key statement of policy for the councils and sits alongside the homelessness strategies and allocations policies as one of the three documents that sets out our vision(s) for tackling housing need in the districts. Finally the strategy ensures a common approach to rent setting and tenancy across the districts, thereby ensuring that residents are treated equally.
9. For Registered Providers the Tenancy Strategy offers a strategic umbrella under which they should frame their policies on tenancy and rent setting. The term 'have regard to' in the legislation does not require Registered Providers to comply with the councils' tenancy strategy , but if they choose not to they must make this clear in their published tenancy policies and explain why.
10. The paragraphs above may leave committee reflecting upon the statutory force of the Tenancy Strategy. In truth this is not clear either from legislation or guidance which instead emphasises that the Strategy should be developed in partnership with Registered Providers to arrive at a common vision for affordable housing in the districts.
11. This is the approach officers have taken. The key issues in the strategy were agreed in consultation with key Registered Providers who attended a workshop along with cabinet members in the spring of 2012. Subsequent to this all Registered Providers have been consulted on an initial draft and will be invited to comment further on a final draft before cabinet formally adopts the strategy.
12. Notwithstanding this officers believe that it is important that the council offers a clear statement both to local people and Registered Providers as to our stance on what are the greatest changes in the affordable housing regime for a generation and ask that Registered Providers account to us if they should choose to depart from the strategy.
13. The Tenancy Strategy covers the two main areas that councils are required to offer guidance to Registered Providers, these being:
 - whether the council is prepared to accept the use of flexible, fixed term tenancies that are subject to a review and if so for whom and for how long;

- the extent to which the council is prepared to allow housing rents to increase to fund new developments on new build properties, existing properties re-lets and fixed term tenancies that are the subject of review.

The councils' approach to flexible fixed term tenancies

14. The government's rationale for introducing flexible fixed term tenancies is twofold.
15. The first is a conclusion that publicly subsidised tenancies should not automatically be offered to people for life. To do this, in government's opinion, does not recognise that a households circumstances can change over time and that their tenancy terms and conditions, or indeed whether they should have an affordable tenancy at all, should be able to reflect that.
16. The second is closely related to the financial regime for developing affordable housing developed by the government, the Affordable Housing Rent Model (AHRM). This model recognises that there is a need to continue to provide affordable housing in tough financial circumstances and consequently requires Registered Providers to use the asset value of their stock to raise private finance for new development rather than rely upon public subsidy. Since the value of the asset is closely related to the income (rental) stream it can generate, the ability to review tenancies and increase rents will be a major contributor to this business model.
17. Our Tenancy Strategy recognises both rationale and proposes to allow the adoption of fixed term tenancies for all new tenancies save for certain specifically adapted properties. It also, whilst not precluding the use of fixed term tenancies, asks Registered Providers to reflect upon their impact upon families, the elderly and the vulnerable.
18. In this respect we are both recognising that flexible tenures will, in areas where development costs of housing are high, allow Registered Providers to maximise the financial utility of their stock in districts whilst at the same time, in districts with high housing need, allow affordable housing to be targeted at those most in need.
19. The strategy also requires Registered Providers to consider the potential disruption both to residents and communities that the prospect of tenancy review could cause. Consequently it asks that, if fixed term tenancies are used, that there are classes of local people whom should not be subject to the potential stress of review and that generally, save for exceptional circumstances, tenancy reviews should be no more frequent than every five years.

The council's approach to affordable rent levels for new build properties.

20. In arriving at a strategic position on the application of the Affordable Housing Rent Model (AHRM) in the districts the Tenancy Strategy has to balance two issues. These are first the acknowledgement that rents will need to rise to fund much needed new affordable housing in the district and secondly the wish to ensure that affordable housing remains affordable for local people.
21. Turning first to the issue of encouraging affordable housing development, the strategy is predicated on the fact that SODC has historically relied upon grant

funding to bring affordable housing forward. Consequently, now that it has reduced the creation of the so called “development capacity” funding stream by the increased rents will be required for any affordable housing to come forward.

22. So, in the context of encouraging new affordable housing development the question for the council is not whether the AHRM should apply in the district but the extent to which we would be content to see rents increase by as much as the government are allowing, i.e. up to 80 per cent of market rents.
23. However balanced against this need for and ability to finance new affordable housing is the issue of the affordability of the higher rents for local people.
24. In the report Impact Assessment of the Affordable Housing Framework Model and Related Welfare Reforms, presented to cabinet briefings in September 2011, officers provided detail as to the likely rent increases that residents of both districts could expect under the AHRM. The report concluded that, for many areas of the districts, these increases were substantial, for example in Didcot the rent of a 3 bedroom house would rise by 61per cent.
25. This report then compared these rent levels to income data of those on our housing registers and concluded that, across both districts, there are a substantial proportion of people in housing need for whom such rent levels are would be unaffordable*. For example the three bed house in Didcot would be unaffordable for approximately 75per cent of people on the council’s housing register
26. This then is the conundrum that the council addresses in our Tenancy Strategy, needing to allow rents to increase to drive affordable housing development but not wishing that end product to be unaffordable to local people.
27. This conundrum faces a number of councils and the response nationally has tended to be one of two. Some councils have decided to prioritise local affordability and have either committed to using their own reserves to grant fund housing at lower rents or are risking their supply of affordable housing drying up.
28. Most councils however have recognised the financial realities and have committed to the AHRM to some degree whilst asking Registered Providers to consider local affordability.
29. Officers have considered the first of these approaches but are not minded to recommend this to the councils for three reasons, these are.
30. Registered Providers, particularly south based LSVT associations such as Soha are, in the main, cash and asset rich organisations and officers believe that it is in the local interest to look to them to provide housing that is affordable for local people rather than ask local taxpayers to fund this.
31. Work done by consultants on the viability of development sites in the district has demonstrated that, for green field developments it will still be viable to produce affordable housing at less than 80 per cent of market rents.
32. Whilst rents at 80 per cent of market rents would be a substantial increase for local residents they are not so high as to break the ceilings for housing benefit.

33. Given these facts officers conclude it is the second of these national approaches that the councils should take, namely that the Tenancy Strategy should enable Registered Providers to take advantage of the new development model whilst at the same time setting out our concerns over local affordability and require Registered Providers to limit the application of the AHRM when building business plans for new developments.

34. Specifically we propose to require Registered Providers to:

- recognise the need to tackle the priority of under-occupation in the districts and not unnecessarily raise rents on 2 bedroom properties such that they would be unattractive to people wishing to downsize from larger properties;
- recognise the impact of increased rents on families and limit rent increases on larger properties (3 and 4 bedroom) to no more than 60 per cent of market rents.

35. Officers believe that this approach offers a balance between the need to encourage development whilst recognising and addressing concerns about affordability.

The councils' approach to affordable rent levels for existing properties.

36. Although the Localism Act offers protection for existing tenants of affordable housing the AHRM also allows Registered Providers to increase rents for new tenancies in existing stock and to increase rents for tenants whose fixed term flexible tenancies are reviewed.

37. For new tenancies of existing stock the Tenancy Strategy recognises that the economic and affordability issues that were detailed in the previous section for new build apply equally to existing stock. This is because government have signalled that they see the increased rental stream from existing affordable housing as being a key component of the AHRM. Consequently the Tenancy Strategy requires Registered Providers to consider the same requirements for new tenancies in existing stock.

38. For reviews of existing tenancies the strategy requires Registered Providers to:

- use a benchmark that no household should spend more than 35 per cent of net income on housing.*
- work with the tenants to understand their income and expenditure patterns to arrive at an informed conclusion as to what rents would be fair for them to pay

Financial Implications

39. None

Legal Implications

40. None

Risks

41. None

Other Implications

42. None

Conclusion

43. Although the Tenancy Strategy as set out in Appendix 1 has no statutory weight it helps guide the work of Registered Providers and may influence the decisions of the Homes and Communities Agency, should some partners fail to have regard for the preferred strategy of the Council. For this reason it has potential to be an important statutory tool for the council in its capacity as the strategic housing authority