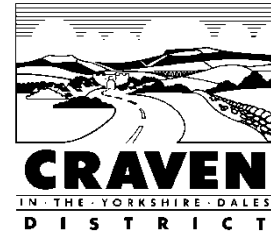


Policy Committee – 9th June 2015

PURCHASE OF INTERMEDIATE SALE DWELLINGS (SHARED OWNERSHIP)



Report of the Director of Services

Ward(s) affected: All

1. Purpose of Report

This report proposes that Craven District Council purchases intermediate sale (shared ownership) dwellings that are available as part of section 106 agreements on development sites and sets out the delivery mechanism and financial and legal implications of so doing.

2. Recommendations

Members are recommended to:

- 2.1 Approve that Craven District Council acquires two s106 shared ownership dwellings
- 2.2 Agree that £150,000 affordable housing commuted sum is used initially to acquire two s106 shared ownership dwellings (and pay associated costs) and thereafter, as a recyclable fund to acquire and sell further s106 shared ownership dwellings, subject to Craven District Council recouping its costs in full.
- 2.3 Grant approval for the Director of Services in consultation with the Leader, the Lead Member for Housing and the relevant Ward Member (s) to identify which s106 shared ownership dwellings are acquired, the method by which they are marketed and sold, subject to Craven District Council recouping its costs in full and update the scheme of delegation accordingly.
- 2.4 Give delegated authority to the Director of Services to request a direction from DCLG under s74 (3)(d) of the Local Government and Housing Act 1989 to develop housing under Part II of the Housing Act 1985 without the need for a Housing Revenue Account.

3. Background

- 3.1 There is a need given the financial climate in which local government now finds itself for the Council to seek new and innovative ways of generating revenue to support the budget, the longer term financial strategy and secure an asset base for future generations..
- 3.2 At the meeting of Policy Committee held on 11th February 2014 Members' attention was drawn to work undertaken by other district councils in using assets and capital to develop new income streams and it was subsequently agreed that Select Committee

AGENDA ITEM 9

would conduct a review of the potential for this Council using its' powers under the Localism Act to progress similar initiatives.

- 3.3 Select Committee met on 12th March 2014 to progress its review. The review included an examination of the potential to acquire Section 106 affordable homes (shared ownership houses) i.e. transfer section 106 shared equity affordable houses from developers to the Council with a 50 % stake sold to a purchaser who pays a rent on the unsold equity.
- 3.4 On conclusion of its review Select Committee recommended to 22 July 2014 Policy Committee and Policy Committee subsequently resolved that the Council progress a housing based approach to revenue generation that included the acquisition of Section 106 Affordable Homes for intermediate sale subject to Policy Committee being satisfied on the financial and legal implications.
- 3.5 This report sets out the process for acquisition together with the financial and legal Implications and seeks Member agreement that Craven District Council now purchases two intermediate sale (shared ownership) dwellings that are available as part of section 106 agreements on development sites.

4 Delivery of s106 Affordable Homes

- 4.1 The majority of affordable housing is now built by private developers on mixed tenure sites and transferred on completion to one of the Council's partner housing associations, now known as Registered Providers (RPs). Under Craven District Council's Interim Affordable Housing Position, adopted for development control purposes on 29 May 2012, approved transfer prices apply (currently £900sm - £1000sm dependent on property type and location). Transfer prices are less than build cost which means that RPs are able to let homes to people at subsidised rents or sell them on a shared ownership basis to those on local incomes. No grant is generally payable on s106 sites.
- 4.2 The SHMA 2011 identifies a shortfall of 218 affordable homes per year in Craven with the need mostly for good sized 1-bed and 2-bed homes; with 75% being affordable rented and 25% for intermediate sale (shared ownership) or rent. Generally speaking, the Council requires this split in affordable tenure when negotiating its affordable housing requirement on a given site. Intermediate homes are typically for local working households who cannot afford market housing, often prospective first time buyers. Intermediate housing accords with the National Planning Policy Framework (NPPF) definition of affordable housing.
- 4.3 Increasingly, local authorities are buying s106 homes built by private developers on mixed tenure sites and making them available as shared ownership (or rented) affordable housing. In Craven, the Council's RP partners have bought all s106 homes to date. It is now proposed that the Council 'takes its turn' along with its partner RPs and starts to acquire some s106 homes for onward sale as shared ownership housing.
- 4.4 The proposal represents an opportunity for the Council to directly assist in providing intermediate housing to meet the needs of those first time buyers who live and work in the district, helping to support the local economy. The use of commuted sums represents another funding stream to displace RP borrowing that might otherwise have been used to purchase these homes, freeing it up to be spent on affordable

AGENDA ITEM 9

housing elsewhere. It is also particularly important to maximise funding sources at a time when some RPs are nearing borrowing capacity.

- 4.5 Recently, the number of s106 opportunities across Craven has increased as sites come forward in advance of the adoption of the Local Plan. A total of 69 affordable dwellings across six sites are currently unallocated to RP partners in Craven and are available for allocation. Sites are usually allocated when building work begins. The status of these sites varies from those that have recently been submitted for planning permission (and may not be approved) to those that have planning permission, but have not yet started on site. It should be noted that this number may reduce because of recent changes to national guidance and the introduction of the Vacant Building Credit, or because of viability challenges.

5.0 The Proposal for Craven District Council to Purchase s106 Shared Ownership Dwellings

- 5.1 It is proposed that all Craven sites available for allocation from April 2015 be distributed amongst RP development partners as currently, but with the inclusion of Craven District Council. At this stage, no indication can be given as to when completed shared ownership homes may be available for purchase as start on site is not within the control of the Council. The recommendation at 2.2 therefore requests commuted sums of £150,000 to allow sufficient funds for increased transfer prices, property sizes and/or on-costs should they increase from those modelled at paragraph 5.7, as well as contingencies.
- 5.2 Initially, it is proposed that the Council acquires affordable homes for intermediate sale (shared ownership) only. Affordable rented dwellings provided by a local authority are eligible for the Right to Buy and significant discounts to market value will apply if the property is sold, leaving limited proceeds to provide replacement affordable housing.
- 5.3 Acquisition of s106 dwellings for shared ownership means the Council acquiring completed dwellings from a private developer at the approved transfer price, retaining the freehold and selling a share of the property (leasehold) to an eligible occupier. Eligible occupiers are typically first time buyers who cannot afford to buy on the open market.
- 5.4 On s106 sites, purchasers will typically pay 40-50% of the value of shared ownership housing to buy a 40-50% share of the property. They may buy further 'tranches' until they own it outright (but can only buy up to 80% of equity in rural areas) and this must be at full market value.
- 5.5 Rent at 2.75% of the unsold equity is payable by the purchaser to the Council, however there is no management or maintenance liability on the Council. This rests fully with the occupier. The Council may however wish to take on responsibility for structural repairs and maintenance and recharge the cost of any such works, as it will hold the freehold of the property. The standard Homes and Communities Agency lease applies.
- 5.6 The Council can own up to 100 shared ownership dwellings without the need to open a Housing Revenue Account. Shared ownership housing is not subject to the Right to Buy, so there is no requirement to control the dwellings through a separate trading company.

AGENDA ITEM 9

- 5.7 The working example below illustrates how the purchase and sale of a shared ownership house on a s106 site works:

A new build 2 bed house of 70 m2 is bought by an RP/CDC at £66,500. This represents 42% of market value (£160,000). The RP/CDC retains the freehold and, adding marketing and legal fees of say £2,000, sells 43% of the property at £68,500 to a first time buyer. The purchaser pays 2.75% rent on the unsold equity (£91,500) to the RP/CDC. This equates to £210 per month or £2,516 per year. The RP/CDC retains 57% of the equity in the house which will appreciate or depreciate according to the prevailing market conditions. The occupier can buy further shares of the house (at market value), paying the RPs/CDCs legal fees, until it is owned outright.

		£
1.	Market Value Property at time of build	160,000
2.	CDC or RP purchase price	(66,500)
3.	On costs (legal and marketing)	(2,000)
4.	43% sold to Purchaser	68,500
5.	Balance for Rental 58%	91,500
6.	Rental @ 2.75% per annum	2,516
7.	Rental per month	209.69
8.	Purchaser wishes to acquire further 10% ownership 2 years later – now owns 53%	88,192
9.	Property Market Value (assumed 2% increase each year)	166,400
10.	Purchase price	16,640
11.	Balance for Rental 47%	78,208
12.	Rental @ 2.75% per annum	2,151
13.	Rental per month	179

- 5.8 Although it is unclear at this stage which sites would be allocated to the Council and when development would take place, it is reasonable to expect that a site of 20 homes would deliver 40% affordable housing (8) and of those, 25% (2) would be intermediate sale. This would require £133,000 to make the initial purchase of two homes until these homes were sold; to which conveyancing and marketing on costs should be added. It is proposed that the properties are identified by the Director of Services in consultation with the Leader, Lead Member for Housing and the relevant Ward Member as part of mainstream affordable housing development work, with conveyancing carried out in-house by Legal Services, subject to resources and marketing externally resources. All costs will be recouped.

6.0 Implications

6.1 Financial

Using the approach in 5.7 above there will be a requirement for upfront funding of £68,500 per unit until 43% of the equity in the dwelling can be sold. This capital

AGENDA ITEM 9

receipt must be reinvested in affordable housing as any 'subsidy' released must be re-used for the provision of affordable housing. If not, the homes fail to meet the definition of affordable housing contained within Annexe 2 of the NPPF and will breach the requirements of the s106 agreement that binds them.

As the purchase costs are fixed, the Council does not carry the risks of cost overruns. In practice, the Council would aim to have identified a purchaser for the dwelling before completion in order to achieve a back to back sale, making funding requirements short term and fully recoverable. If there is a delay in selling the property, the Council will incur some council tax liability and will lose interest on its commuted sum used to fund the acquisition.

The Council's conveyancing costs may be added to the sale price and recouped by the Council. There are also likely to be some (recoverable) marketing costs as potential purchasers of shared ownership housing do not as a rule register with North Yorkshire HomeChoice. Shared ownership homes may be marketed through the HelptoBuy zone agent (Yorkshire Housing), but also via estate agents, Rightmove, local press etc.

The receipts from rent charged on the unsold equity can be placed into the general fund and do not have to be used for affordable housing. It is not yet clear whether there are restrictions on the use of capital receipts generated as purchasers buy further 'tranches' in the property at market value; i.e. whether they too should be recycled for affordable housing provision or can be used for any purpose. Clarification is being sought on this aspect from DCLG, but in the meantime it should be noted that there is no risk to the Council, whatever the response. This is because it will recoup its initial capital outlay plus on-costs on first sale of the property. It will then continue to receive rental income on the unsold equity, reducing as further tranches are acquired by the occupier, until such time as the property is sold outright.

6.2 Legal

The Council may use commuted sums to purchase affordable homes for intermediate (shared ownership) sales provided the terms of the s106 Agreement do not prohibit it. A report setting out this proposal was approved at Policy Committee on 3 March 2015. This report also informed Members that the Council currently held £210,000 in uncommitted commuted sums.

The Council has the power to develop housing under Part II of the Housing Act 1985 which can be owned without the need for a HRA by requesting a s74 (3)(d) direction of the Local Government and Housing Act 1989. DCLG confirms that the direction will be granted if the total number of dwellings provided by Craven under Part II is fewer than 50 fully owned houses or 100 shared ownership ones.

7. Contribution to Council Priorities -

The recommendations directly contribute to a number of Council Priorities, namely

- **Enterprising Craven**

Determining future land allocations for housing and employment across the District outside the National Park and **securing affordable homes**, improving infrastructure throughout the District and supporting business growth.

AGENDA ITEM 9

- **Financial Resilience**

Ensuring the Council remains financially sustainable and has robust arrangements in place for securing value for money, and implementing major projects in the Asset Management Plan to support the achievement of value for money.

8. Risk Management

- 8.1 There is a small risk that either there is insufficient demand or that lenders will not lend against this product. Some difficulties were experienced nationally with some lenders during the period of economic decline, when shared ownership was seen as something of a niche market. This was particularly the case with rural shared ownership, because of the restrictions on outright ownership. Lenders also favour houses over flats. The situation is much improved with lenders generally and there is widespread acceptance now of the standard, government-approved, shared ownership lease.

If there is insufficient demand it is possible to convert the intermediate sale properties to intermediate rent (subject to any s106 requirements). These would be best placed within a separate trading company in order to allow short hold tenancies and avoid the Right to Buy.

A quicker and easier approach is simply to sell the properties to a housing association for affordable rent at the original price (again subject to any s106 requirements).

9. Author of the Report

Wyn Ashton, Housing and Environmental Health Manager

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.