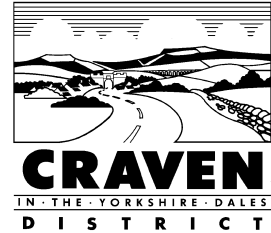


POLICY COMMITTEE

15th December 2015



Recommendation for Confirmation

Report of the Corporate Head of Business Support

Lead Member: Councillor Foster

Ward(s) affected: Not applicable.

1. **Purpose of Report** – To seek confirmation of a decision of the Planning Committee held on 24th November 2015 regarding the discharge of affordable housing conditions.
2. **Recommendation** – To consider adopting the decision within the minute reproduced in this report.
3. **Report**
 - 3.1 At the meeting of Council held on 1st December 2015, in responding to a question the Leader agreed that a decision of the Planning Committee taken on 24th November 2015 regarding the discharge of affordable housing conditions should be confirmed by the Policy Committee.

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- 3.2 The Strategic Manager for Planning and Regeneration submitted a report seeking confirmation that where a developer had been unable to transfer affordable dwellings to a registered provider (or the Council) a commuted sum would be acceptable in discharging the affordable housing condition.

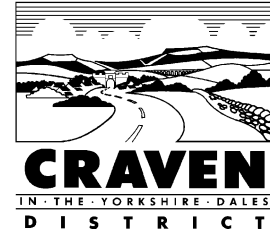
Resolved – (1) That the advice regarding the current position of registered providers is noted and that it is confirmed that the Affordable Housing Condition can be discharged by payment of a commuted sum where a developer has been unable to transfer the affordable dwellings to a registered provider, or this Council.

(2) That the Strategic Manager for Planning and Regeneration is authorised to determine the number and type of affordable dwellings to be replaced by commuted sums.

4. **Author of the Report** – Vicky Davies, Committee Administrator. Telephone 01756 706486. E-mail vdavies@cravencd.gov.uk

5. **Appendix** – Report of the Strategic Manager for Planning and Regeneration submitted to the Planning Committee on 24th November 2015.

Planning Committee – 24 November 2015



AFFORDABLE HOUSING CONDITION

Report of the Strategic Manager for Planning and Regeneration

Lead Member Councillor Foster

Ward(s) affected: All

1. **Purpose of Report** – To update Members on the impact of Budget announcements on the ability of Registered Providers (RPs) to deliver affordable homes in the district. To seek confirmation that where a Developer has been unable to transfer the Affordable Dwellings to a Registered Provider (or the Council) a commuted sum is acceptable to discharge the Affordable Housing Condition.
2. **Recommendations** – Members are recommended to:
 - 2.1 note the advice regarding the current position of Registered Providers;
 - 2.2 confirm that the Affordable Housing Condition can be discharged by payment of a commuted sum where a Developer has been unable to transfer the Affordable Dwellings to a Registered Provider (or the Council);
 - 2.3 grant the Strategic Manager (Planning and Regeneration) authority to determine the number and type of Affordable Dwellings to be replaced by commuted sums.
3. **Background**
 - 3.1 For a number of years, the Council has worked with a range of Registered Provider (RP) partners to deliver affordable homes across the district, both on sites that an RP develops itself or increasingly, on mixed tenure (s106) sites where it buys homes from private developers on completion. This arrangement has worked well. As at 1 April 2015, the Council was working with seven RPs, having delivered 92 affordable homes in 2014/2015 and forecasting even higher completions in 2015/16.
 - 3.2 However, changes to rent setting policy announced in the Budget (a move from ten years of rent increases at CPI + 1% to four years of 1% rent reductions), in addition to the impacts of Welfare Reform and a raft of measures to be introduced through the Housing and Planning Bill, from Right to Buy to Pay to Stay, has meant that all RPs are currently having to review their development programmes.

- 3.3 The impact of these changes is twofold - firstly and most directly arising from the unplanned rent reductions, is the effect on development viability. In Craven and a number of other local authority areas RPs pay approved transfer prices to buy completed Affordable Dwellings. These prices are payable because of the rents and the rent increases charged by RPs. Rent cuts mean that an RP's ability to buy Affordable Dwellings comes under threat.
- 3.4 Secondly and more difficult to deal with, is the uncertainty these changes have brought. The RP sector is currently considering all options and all are making efficiency savings. Nationally a number of RPs have said they will no longer develop or take transfer of affordable rented housing, moving instead to low cost home ownership or market sale. Others, including those who operate in Craven, are still assessing the situation, believing it will be well into the New Year before the national picture and their position is clearer.
- 3.5 It is expected that there will always be some sites that will be viable to RPs. In addition, those areas such as Craven that have both relatively high values and housing demand will be more popular. In the medium to long term, it is expected that the situation will improve as the full extent of financial change becomes clear and is addressed by RPs. It is important however, that the Council develops a fall back position in the short term for those instances where the private sector builds affordable homes and there is no RP to take them.
- 3.6 Strategic Housing is currently in discussion with a number of Developers who are looking to discharge section 106 conditions in order to commence work on sites for which they already have planning permission. On a number of sites no RP has been identified by the Council as willing to take the Affordable Dwellings. It is not the case, on these sites, that Developers are not willing to provide the Affordable Dwellings but rather that RPs are unable to commit to taking transfer of the Affordable Dwellings at this time.

4. Steps Already Taken

The Council has already taken a number of steps to deal with this situation and safeguard its affordable homes.

Amended Affordable Housing Condition

- 4.1 The standard condition which delivers on-site affordable housing has been amended to specifically allow for the payment of commuted sums in lieu of some (or all) of the approved on-site homes (see Appendix A). This is a last resort which will ensure that sums are freed up by allowing the sale of a proportion of the affordable homes on a specific site to fund the purchase of the remainder or to bridge a viability gap.
- 4.2 The revised condition is published within the Council's planning guidance and now forms part of reports to Planning Committee for all new applications. This report seeks approval from Planning Committee to replace the standard

affordable housing condition with the revised condition on all existing permissions.

- 4.3 The commuted sum will be 'ring-fenced' to the development, with any surplus paid into the Council's affordable housing commuted sums 'pot' for the provision of affordable housing elsewhere in the district. Where no RP comes forward however, the condition allows for the affordable requirement on site to be met by up to 100% commuted sums. These will be used for the provision of affordable housing elsewhere in the district.

Tenure Switch

- 4.4 The Council normally negotiates 75% rented housing to 25% shared ownership on s106 sites. This is not a site specific target and the proportion of shared ownership housing can be increased to assist viability or make the proposal more attractive to an RP where justified as shared ownership has not been affected by the rent reductions. The SHMA 2015 identifies that on Craven's housing register there are a total of 362 households that could afford shared ownership housing. The amount of equity stake that is affordable to these households ranges from £50,000 to £120,000, equivalent to 32% to 75% share in a property valued at £160,000.

The Council as RP

- 4.5 The Council itself may develop housing under Part II of the Housing Act 1985. At its meeting of 6th June 2015, Policy Committee approved the expenditure (and recycling) of £150,000 commuted sums on shared ownership homes on s106 sites. The Council is therefore in a position to assist and can acquire a small number of homes from commuted sums already held. It may also acquire homes using commuted sums generated by the sale of on-site affordable homes when this becomes necessary.

5. Discharge of Condition Applications

- 5.1 There are a number of sites where Developers have or are ready to submit discharge of condition applications. Affordable Housing Conditions are generally discharged following completion of a s106 agreement.
- 5.2 Determination of discharge of condition applications is delegated to the Strategic Manager (Planning and Regeneration).
- 5.3 The Affordable Housing Condition to be discharged on most of these sites does not specifically refer to accepting a commuted sum. However, the circumstances now affecting RPs were not envisaged at the time and the need for a "fall back" position is becoming increasingly necessary to allow Developers to bring sites forward where they already have planning permission and avoid the delays that are currently being experienced through lack of an RP.

- 5.4 This “fall back” would allow for all or part of the affordable housing requirements to be met by payment of a commuted sum. The “fall back” to a commuted sum would be set out in detail in the s106 agreement. The “fall back” would only be applicable where the Developer has first offered **all** the Affordable Dwellings to an RP or RPs identified by the Council , or to the Council itself, and neither an RP nor the Council has accepted transfer. Initially, the Affordable Dwellings would be split, with a commuted sum payable to the Council by the Developer in lieu of between a third and half of the total number of Affordable Dwellings originally approved on-site and now to be sold on the open market.
- 5.4 The Developer would then be required to offer the remaining Affordable Dwellings to an RP or the Council. The commuted sum generated by the release of the Affordable Dwellings for sale will be used to fund the acquisition of the remainder, either by “topping up” RP or Council funding, or by providing that funding in full. However, in the unlikely event that this transfer also fails, a second commuted sum can be paid, with the entire commuted sum used to fund affordable housing elsewhere in the district.
- 5.5 It is important that the Council has this flexibility to allow development to commence on these sites and affordable contributions (on and off site) to be secured. Equally, where development has already commenced, it is vital that it should not be held up if there is no RP in place to buy the Affordable Dwellings on completion. The current situation is unprecedented and there is no “fall back” position currently written into s106 agreements. Use of the proposed condition will give Developers the certainty to start on site and the Council the comfort that affordable contributions will be met in full, albeit through a combination of on and off site contributions, until such time as RP business plans adjust to take account of the changing financial climate in which they operate.

6. Implications

- 6.1 Financial and Value for Money (vfm) - None arising directly from this report. Any commuted sums received in lieu of on-site affordable housing must be spent on the provision of affordable homes.
- 6.2 Legal Implications - National Planning Practice Guidance indicates that development that is ready to proceed should not be held back by delays in discharging planning conditions and discharge of condition applications should be dealt with within 21 days.
- 6.3 A s106 agreement can be used to secure the affordable contributions (on and off site). Any such s106 agreement can set out the parameters in which a payment in lieu of onsite provision is acceptable ensuring that an offer to transfer to RPs or the Council is made prior to resorting to a commuted sum.
- 6.4 Contribution to Council Priorities - *Enterprising Craven* - Securing affordable homes across the District outside the National Park, improving infrastructure throughout the District and supporting business growth.

- 6.5 Equality Analysis – The Council’s Equality Impact Assessment Procedure **has been** followed. An Equality Impact Assessment **has not** been completed on the proposals as completion of **Stage 1- Initial Screening** of the Procedure identified that the proposed policy, strategy, procedure or function **does not have** the potential to cause negative impact or discriminate against different groups in the community based on •age • disability •gender • race/ethnicity • religion or religious belief (faith) •sexual orientation, or • rural isolation.
- 6.6 Risk Management –There are no risks inherent with the recommendations specified in this report.

7. Consultations with Others – Financial Services, Legal Services

8. Access to Information : Background Documents – None

9. Author of the Report – (*Jenny Wood, Affordable Housing Development Officer*); telephone 01756 706433; e-mail:jwood@cravendc.gov.uk Note :

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

10. Appendices

Appendix A – Additional Affordable Housing Condition

Appendix A

Standard Affordable Housing Condition with Additional Criterion vi.

The development shall not begin until a scheme for the provision of affordable housing has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme. Affordable housing shall meet the definition of affordable housing in the NPPF or any future guidance that replaces it.

The scheme shall include:

- i). the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of housing units (subject to viability);*
- ii). the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;*
- iii). the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no Registered Provider involved);*
- iv). the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and*
- v). the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced; or*
- vi). details of an equivalent affordable housing contribution to be provided in lieu of affordable housing on site and the means by which such a contribution shall be provided (alternatively, this may be a contribution that is to be provided partly on site and partly in lieu).***