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AGENDA ITEM \$11

Policy Committee – 7 March 2017

Acquisition of Section 106 Shared Ownership Dwellings



Report of the Director of Services

Lead Member – Councillor Foster

Ward(s) affected: All

1. Purpose of Report

- 1.1 This report reviews the Council's acquisition of shared ownership properties developed under section 106 agreements, and recommends the purchase of up to five further shared ownership homes.

2. Recommendations

Members are recommended to:

- 2.1. Note the review of the Council's acquisition and sale of three s106 shared ownership properties, at paras. 4.1 – 4.4 below.
- 2.2 Approve that Craven District Council purchases five further s106 shared ownership dwellings at a location(s) across the district to be agreed in accordance with para. 2.4 below.
- 2.3 Agree that the five s106 shared ownership dwellings are acquired with affordable housing commuted sums received prior to the purchase completing or if insufficient commuted sums are available, with capital resources to a maximum of £100,000, subject to repayment of this sum to the Council on first sale.
- 2.4 Grant approval for the Director of Services in consultation with the Leader, the Lead Member for Housing and the relevant Ward Member(s) and s151 officer to identify which s106 shared ownership dwellings are acquired.

3. Background Information

- 3.1 At its meeting of 9 June 2015, Policy Committee approved the acquisition of

two shared ownership homes built to meet planning policy requirements under a section 106 agreement (s106 homes). Expenditure of £150,000 commuted sums was approved for their acquisition and associated costs; funding already held by the Council as commuted sums for the provision of affordable housing. At the same meeting, Policy Committee agreed that this funding should be recyclable, subject to the Council recouping its costs on sale of the properties to first time buyers. Approval was granted for selection of the dwellings to be made by the Director of Services in consultation with the Leader, the Lead Member for Housing and the relevant Ward Member(s).

- 3.2 Following this resolution, the Council bought two new build homes in July 2016. The sale of one of these properties completed in January 2017, with the other delayed slightly and due to complete on 24 February 2017. Exempt Appendix 1 sets out the position with affordable housing commuted sums held by the Council following the transaction.
- 3.3 The Council's s106 affordable sale programme has been supplemented by the use of 'fallback' provisions. Approved by Policy Committee in December 2015, fallback provisions are implemented by the Council where there is no housing association (or Registered Provider – RP) willing or able to purchase s106 homes on a given site. This approach became necessary following the Budget of July 2015 which introduced changes to RP funding. Since then, RP partners have tended to focus development activity on larger sites or consolidate development in areas where they already have stock and a management presence. Smaller, more rural sites are of less interest to them.
- 3.4 Fallback provisions mean that the Council can step in in cases where, on completion, there is no housing association to buy s106 homes. It does so by taking a commuted sum in lieu of one or more of the homes originally earmarked as affordable. With that, the Council buys the remainder of the on-site affordable homes for onward sale as shared ownership housing.
- 3.5 The Council has so far implemented fallback provisions on only one occasion. Of the two affordable homes originally approved on this site, one was sold on the open market by the developer, generating a commuted sum paid to the Council, with which the Council bought the other. The costs and income of that transaction are also summarised at Exempt Appendix 1.

4. Acquisition and Sale of Two Newbuild S106 Homes

- 4.1 On this site, sales of 25% and 50% respectively were agreed, reflecting the particular financial circumstances of each purchaser. The shared ownership model, regulated by the Homes and Communities Agency, requires that purchasers initially buy as much of a shared ownership property as they can afford, from 25% to 75%. Affordability should be assessed by an Independent Financial Adviser, taking into account the subsidised rent that is payable on the unsold equity.
- 4.2 As originally modelled, sales of 50% were assumed on both properties – standard RP practice when carrying out financial appraisals of this tenure. The sale of a 25% share to one purchaser means that net of costs, initial

receipts are slightly down on those forecast. These will however be offset by higher rental income (at 2.75% of unsold equity), with rents subject to annual increases of RPI +0.5. In addition, purchasers can at any time acquire further shares in the properties at market value, with receipts payable to the Council.

- 4.3 All costs arising from the acquisition and sale of shared ownership properties may be paid by commuted sums, including legal fees, which (subject to resources) the Council undertakes in-house.
- 4.4. The s106 affordable sale programme is considered a success. For the first time in many years, the Council is involved in the direct provision of affordable housing. Shared ownership homes offer a viable alternative for first time buyers, supporting local communities and the local economy. For the Council, they represent value for money, adding to its asset base, fulfilling its strategic housing role by providing affordable housing and also generating rental income and future capital receipts.
- 4.5 It is therefore proposed that the Council acquires up to five more shared ownership s106 dwellings in Craven. Timing is not within the Council's control, but it does need to have approvals to purchase in place so that it can move quickly to contract with private developers as opportunities arise and developments start on site. There are currently 15 mixed tenure sites that have planning permission (either full or outline) to include affordable housing, delivering 55 shared ownership homes in total. These sites are located, across the district – five in Skipton as well as rural locations, including Embsay, Giggleswick, Cononley and Gargrave. The timing and selection of sites will be made in accordance with recommendation 2.3 above.
- 4.6 It is estimated that £350,000 commuted sums will be needed to acquire five dwellings and pay associated costs (based on 2-bed, 70sm homes). Exempt Appendix 1 models this proposal, as well as existing commitments and projected receipts arising from the use of affordable housing commuted sums.

5. Implications

5.1 Financial and Value for Money Implications

- 5.1.1 Using the same agreed approach set out in minute POL 669 of the 9th June 2015 the acquisition costs of the five s106 dwellings will be met from available commuted sums set out in Exempt Appendix 1. However the existing commuted sum pot may not be sufficient to meet all costs in the short term for a number of reasons –
- a) The timing for the acquisition of the five which have yet to be identified, at a maximum cost of £350,000 (including fees).
 - b) The existing commitment of £245,000 for the remodelling of the homeless hostel - from commuted sums towards the total cost of the project of £750,000. There will be a call for these sums in 2017/18 and 2018/19.
 - c) The Council's existing commitment to the building of 14 shared ownership units on its garage sites. £60,000 commuted sums has been set aside for viability purposes. This includes a total of £27,000 for the first 3 pilot units, as a contingency,

should costs be higher and/or sale values lower than projected. It is considered that the remaining 11 units will need a commuted sum of £33,000 (£3,000 /unit) but at this time it is unclear when the remaining units will start on site. This will be dependent on the result of the pilot.

- 5.1.2 Therefore, in the short term, an element of capital programme monies may be required to make up the shortfall between available commuted sums and the total acquisition of five further shared ownerships homes. The call will be short term as it is estimated that following sale of the five shared ownership units at (a) above, the Council will realise an estimated receipt of £475,000 for a 50% share, net of costs, whilst receipts will also be generated with the sale of the units at (c) above.

5.2 **Legal Implications**

- 5.2.1 The Council may use commuted sums to buy shared ownership housing provided it is not prevented from doing so by the terms of the s106 agreement. A report setting out this proposal was approved at Policy Committee on 3 March 2015.
- 5.2.2 The Council may develop housing under Part II of the Housing Act 1985 without needing to re-open the HRA if the properties held do not exceed a limit and a direction under s74 (3) (d) of the Local Government and Housing Act 1989 is obtained.

5.3 **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 and **securing affordable homes**, improving infrastructure throughout the District and supporting business growth

- Financial Resilience

Ensuring the Council remains financial 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

6. **Appendices**

Appendix 1 – Analysis of Current Position Regarding Purchase of S106 Properties

7. **Author of the Report**

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