

CANNOCK CHASE COUNCIL

CABINET

27 AUGUST 2009

REPORT OF THE DIRECTOR OF SERVICE IMPROVEMENT

RESPONSIBLE PORTFOLIO LEADER: HOUSING

RIGHT OF FIRST REFUSAL

KEY DECISION – YES

1. Purpose of Report

- 1.1 To review in the light of changes to the Government's financial regime for new and acquired housing the Council's "Right of First Refusal" policy.

2. Recommendations

- 2.1 That the Council's current policy, not to acquire dwellings offered under the "Right of First Refusal" is re-affirmed.
- 2.2 That a further review of the Council's "Right of First Refusal" policy is undertaken when the situation regarding the eligibility of local authorities to bid for Social Housing Grant from the National Affordable Housing Programme has been clarified.
- 2.3 That the Council's current policy of refusing other requests to purchase dwellings for continued occupation is refused.

3. Summary

- 3.1 The Council's current policy is to refuse any offer to re-purchase a former Council property under the "Right of First Refusal".
- 3.2 The Government have however, recently removed the financial disincentives in relation to the acquisition of additional Council housing and as a result this policy has been reviewed.
- 3.3 Resources generated from the sale of vacant one bedroom bungalows are potentially available to fund any re-purchases but would reduce the Council's ability to assist housing associations to provide additional accommodation in accordance with current policy.
- 3.4 Furthermore, housing associations are able to secure social housing grants from the National Affordable Housing Programme and this together with their ability to borrow "private finance" means that for the same amount of Council resources, more social housing can be provided through a housing association than would be provided through direct acquisitions by the Council.
- 3.5 As a result, it would not be possible to demonstrate in any application to the Secretary of State for the exclusion of any dwellings acquired under the "Right of First Refusal" from the HRA

subsidy system demonstrated "value for money" in comparison with the continued funding of housing associations.

- 3.6 It is therefore proposed that the Council's existing policy, not to acquire former Council dwellings which are offered for re-purchase under the "Right of First Refusal" is reaffirmed.
- 3.7 Changes are however expected, which would enable local authorities to bid for Social Housing Grant from the National Affordable Housing Programme. It is therefore also suggested that when the situation has been clarified, the Council's "First Offer of Refusal Policy" is reviewed again.
- 3.8 The Council occasionally receive other requests from owner-occupiers to purchase their homes, a number of which also request that the existing occupants remain in occupation as Council tenants. In view of the financial disadvantages and in some cases the absence of a vacant dwelling, it is also the Council's existing policy to refuse such requests. It is again suggested that the Council's existing policy is reaffirmed.

4. Background

- 4.1 Under section 156A of the Housing Act 1985 (as amended by the Housing Act 2004) tenants who have purchased their home under the Right to Buy and wish to sell it within 10 years, are required to offer it initially to the Council or another social landlord for re-purchase at full market value.
- 4.2 The market value must be agreed between the two parties and if this cannot be agreed this will be determined by the District Valuer. If an offer to re-purchase a former Council property has not been accepted within 8 weeks, the owner is "free" to sell the property on the open market.
- 4.3 This requirement is termed the "Right of First Refusal".

5. The Council's Current Policy

- 5.1 Until recently, the Council housing finance regime redistributed revenue (through the HRA subsidy system) and capital receipts (through pooling) from new or acquired housing and existing housing on the same basis.
- 5.2 No provision was made within the HRA subsidy system for financing the capital costs of new or acquired Council housing. As the assumed rent income would exceed the Government's prescribed management and maintenance allowances, this would worsen a local authority's HRA subsidy position. In the case of Cannock Chase which is in a position of negative subsidy, the amount of subsidy paid to the Government would increase with every additional dwelling which was built or acquired.
- 5.3 In addition, 75% of the net receipts from properties sold under the Right to Buy are paid to the Government and are pooled centrally. As a result, a local authority would risk losing most of its capital investment if a new or acquired dwelling was sold.
- 5.4 As a result of these financial disincentives, the Council's current policy is to refuse any offers to re-purchase any dwellings under the "Right of First Refusal".

6. Changes to the Government's Financial Regime for New and Acquired Housing

- 6.1 The Housing Policy Development Committee on 24 February 2009 considered a consultation paper issued by the Department for Communities and Local Government on excluding new and acquired Council housing from Housing Revenue Account subsidy and pooling. The consultation paper proposed (at a date then to be determined) that local authorities would be able to retain:-
- (a) All the rent income from newly built or acquired dwellings;
- and (b) All of the capital receipts from newly built or acquired dwellings, provided that these are used for affordable or regeneration projects.
- 6.2 Local authorities would however, have to apply to the Secretary of State for any new or acquired dwellings to be excluded from the HRA subsidy system. As part of the required applications it was proposed that local authorities would need to demonstrate through a "robust options appraisal" that direct building or acquisition provided "value for money" in comparison to alternative action.
- 6.3 The Housing Policy Development Committee recommended a proposed response from the Council in respect of the consultation paper which was subsequently endorsed by Cabinet on 24 April 2009.
- 6.4 The Housing Minister on 30 June 2009 announced the outcomes of the Government's Review of Council Housing Finance which were reported to Cabinet on 23 July 2009. A consultation paper has now been published and will be considered as a future report.
- 6.5 However, the Minister also stated (within his announcement) that the proposals to exclude new and acquired Council housing from Housing Revenue Account subsidy and pooling were to be implemented with immediate effect. This change in Government policy has implications for the Council's current "Right of First Refusal" policy and as a result this has been reviewed.

7. Review of Current Policy

- 7.1 As the financial disincentives in relation to acquiring additional Council housing have been removed the Council could choose to re-purchase former Council houses (sold under the Right to Buy) in accordance with the "Right of First Refusal".
- 7.2 Capital resources generated from the sale of one-bedroom bungalows are potentially available to finance such acquisitions at the present time and £317,592 remains uncommitted. Acquisitions could be restricted to the re-purchase of houses which are in high demand and would help ease "the pressure" on the Housing Register.
- 7.3 Such action would however, reduce the Council's ability to assist housing associations to build or acquire additional accommodation and would necessitate a change in the Council's current policy as agreed by Cabinet on 22 January, 2009.
- 7.4 Furthermore, housing associations are able to secure Social Housing Grant from the National Housing Programme (subject to the availability of funding) and this, together with their ability to borrow "private finance" means that for the same amount of Council resources, more social

housing can be provided through a housing association than would be provided through direct acquisitions by the Council.

- 7.5 As a result, it would not be possible to demonstrate in any application to the Secretary of State for the exclusion of any dwellings acquired under the "Right of First Refusal" from the HRA subsidy system demonstrated "value for money" in comparison with the continued funding of housing associations.
- 7.6 In view of these factors it is proposed that the Council's existing policy, not to acquire former Council dwellings which are offered for re-purchase under the "Right of First Refusal" is reaffirmed.
- 7.7 Whilst local authorities are not currently able to bid for Social Housing Grant from the National Affordable Housing Programme (NAHP) it is understood that this situation will change in approximately 6 months time. As a result and subject to "pre-qualification" as an Investment Partner with the Homes and Communities Agency (HCA) the Council will be able to "compete" for Social Housing Grant with both housing associations and other social housing providers.
- 7.8 An application for the Council to pre-qualify as an HCA Investment Partner is currently being prepared subject to this application being successful and the situation regarding the eligibility of local authorities to bid for Social Housing Grant from the NAHP being clarified, it is suggested that the Council's "First Offer of Refusal Policy" is reviewed again.

8. Other Requests for the Council to Purchase Dwellings

- 8.1 The Council occasionally receive requests from owner-occupiers to purchase their homes. The reasons for these requests vary but primarily relate to difficulties in selling their home on the open market, financial difficulties or problems with maintaining their home as a result of age or ill-health.
- 8.2 A number of these requests also ask the Council to purchase the dwelling and then allow the existing household to remain in occupation as Council tenants.
- 8.3 In view of the financial disadvantages which have previously been outlined in relation to the First Right of Refusal, it is again the Council's policy to refuse such requests.
- 8.4 Furthermore, the purchase of properties to enable the existing household to remain in occupation as a Council tenant would not provide a vacant dwelling to help other households on the Housing Register.
- 8.5 It is therefore suggested that the Council's existing policy not to acquire other dwellings which are offered for sale is also reaffirmed.

9. Conclusion and Reasons for Recommendations

- 9.1 This report reviews the Council's "Right of First Refusal" policy in the light of changes to the Government's financial regime for new and acquired housing.
- 9.2 Whilst the financial disincentives in relation to the acquisition of acquired housing have been removed, the Council is not able at the present time to bid for Social Housing Grant. As a result, any request to the Secretary of State to exclude any dwellings acquired under the "Right

of First Refusal" would not demonstrate "value for money" in comparison to the continued funding of housing association development.

- 9.3 It is therefore suggested that the existing policy of not acquiring dwellings is re-affirmed.
- 9.4 It is however, understood that local authorities will be able to bid for Social Housing Grant in the future. It is therefore also suggested that when the situation has been clarified the Council's "First Offer of Refusal" policy is reviewed again.
- 9.5 A number of other requests to purchase dwellings from owner-occupiers are also received and it is again suggested that the Council's existing policy of refusing such requests is reaffirmed.

10. Other Options Considered

- 10.1 The alternative options are considered in the report.

11. Report Author Details

Ian Tennant (Head of Housing) Ext. 4210.

SCHEDULE OF ADDITIONAL INFORMATION

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Section 1

Contribution to Council Priorities (i.e. CHASE, Corporate Plan)

The acquisition of dwellings under the "Right of First Refusal" would increase the number of dwellings in the Council's housing stock and reduce pressure on the Housing Register. This would contribute to the Healthier Communities, Housing and Older People objective of CHASE.

Additional social housing can however be provided through a continuation of the present policy of funding housing association developments, which would result in a greater contribution to the Healthier Communities, Housing and Older People objective of CHASE.

Section 2

Contribution to Promoting Community Engagement

The proposals within this report have been discussed with the Chase Tenants and Residents Federation.

Section 3

Financial Implications

The Financial Implications of the acquisitions of dwellings under the "Right of First Refusal" are referred to throughout the report and can be summarised as follows :

Until recently, the Council housing finance regime redistributed revenue (through the HRA subsidy system) and capital receipts (through pooling) from new or acquired housing and existing housing on the same basis.

No provision was made within the HRA subsidy system for financing the capital costs of new or acquired Council housing. As the assumed rent income would exceed the Government's prescribed management and maintenance allowances, this would worsen a local authority's HRA subsidy position. In the case of Cannock Chase which is in a position of negative subsidy, the amount of subsidy paid to the Government would increase with every additional dwelling which was built or acquired.

In addition, 75% of the net receipts from properties sold under the Right to Buy are paid to the Government and are pooled centrally. As a result, a local authority would risk losing most of its capital investment if a new or acquired dwelling was sold.

Whilst the financial disincentives in relation to the acquisition of acquired housing have been removed, the Council is not able at the present time to bid for Social Housing Grant.

Housing associations are able to secure Social Housing Grants from the National Housing Programme (subject to the availability of funding) and this, together with their ability to borrow "private finance" means that for the same amount of Council resources, more social housing can be provided through a housing association than would be provided through direct acquisitions by the Council.

It is understood that local authorities will be able to bid for Social Housing Grant in the future.

It is therefore suggested that when the situation has been clarified the Council's "First Offer of Refusal" policy is reviewed again and the detailed financial implications will be considered at this stage.

Subject to the recommendation being approved there are no direct financial implications for the Council at this stage arising from this report.

Section 4

Legal Implications

The Legal Implications are set out throughout the report.

Section 5

Human Resource Implications

There are no human resource implications arising from this report.

Section 6

Section 17 (Crime Prevention)

There are no identified Section 17 implications arising from this report.

Section 7

Human Rights Act Implications

There are no identified implications in respect of the Human Rights Act 1998 arising from this report.

Section 8

Data Protection Act Implications

There are no identified implications in respect of the Data Protection Act arising from this report.

Section 9

Risk Management Implications

The "imbalance" of dwelling types within the social housing stock has been identified in the Council's risk register. The potential problems associated with this risk include supply exceeding demand in respect of certain dwelling types (for example one bedroom bungalows) and demand exceeding supply in respect of other dwelling types (for example houses). As a consequence, problems associated with a loss of rent income and tenant dissatisfaction arise.

The score rating for the gross risk is 16 which falls within the high risk category.

The Council is however undertaking a number of actions to mitigate the risks which include:-

- (a) The introduction of Choice Based Lettings.
- (b) The implementation of a Decent Homes Improvement Plan.
- (c) The disposal of vacant one bedroom bungalows and the use of the resultant capital receipts to facilitate the provision of additional social housing.

As a result of these actions, the net risk has been assessed as 8 which falls within the medium risk category.

The acquisition of dwellings under the "Right of First Refusal" would reduce the resources which are available to facilitate the provision of additional family housing through housing associations. As housing associations are able to supplement this funding with Social Housing Grant from the National Affordable Housing Programme and private finance, they can, for the same amount of Council resources, provide more social housing than would be provided through direct acquisitions by the Council.

As a result if the Council choose to acquire dwellings under the "Right of First Refusal", the Council's ability to address the imbalance in the social housing stock would reduce. As a consequence, the risk score would increase to 12, although it would remain in the medium risk category.

Section 10

Equality and Diversity Implications

The Council's "First Right of Refusal" policy will be subject to an equality impact assessment in accordance with the agreed programme.

Section 11

List of Background Papers

None.

Section 12

Report History

The Delivery of Affordable Housing	Housing Policy Development Committee	1 December 2008
Consultation on Excluding New Council Housing from Housing Revenue Account Subsidy and Pooling	Housing Policy Development Committee	24 February 2009
Housing Revenue Account Provisional Outturn 2008-09	Cabinet	23 July 2009

Annexes