

Cabinet – 15 December 2021

Affordable housing commuted sums spend scheme

Portfolio: Councillor Andrew – Deputy Leader, Regeneration

Related portfolios: Councillor Craddock – Health and Wellbeing
Councillor Martin – Adult Social Care
Councillor Perry – Deputy Leader, Resilient Communities
Councillor Wilson – Children's

Service: Customer Engagement

Wards: All

Key decision: Yes

Forward plan: Yes

1. Aim

To ensure that affordable housing commuted sums (AHCS) are spent in a consistent and coordinated way, to increase the supply of dispersed temporary accommodation for homeless households.

2. Summary

- 2.1 In line with Black Country Core Strategy (BCCS) Policy HOU3, the Council seeks a 25% affordable housing contribution on all planning applications of 15 or more self-contained dwellings. This is typically sought as an on-site contribution, but in a number of circumstances a financial contribution (otherwise known as a commuted sum) is instead accepted, and can only be spent on the provision of affordable housing within Walsall.
- 2.2 As at 30 November 2021, the Council has received (after deduction of 1.5% monitoring fee) £1,538,103 AHCS (**Appendix A**). It has so far committed up to £274,994 for the purchase of two long term empty homes. Approval is sought for the remaining balance, and any future AHCS contributions, to be used for the purchase and refurbishment of homes, or for renovation of otherwise redundant surplus council assets, which will then be used as temporary accommodation for homeless households.
- 2.3 Over the last 5 years, over 900 units of affordable housing have been constructed in Walsall. Whilst contributions through the Planning system have an important role to play, the vast majority of affordable housing provision in Walsall is delivered through (Homes England) grant funded schemes by housing associations (HAs) such as whg and GreensquareAccord.

3. Recommendations

- 3.1 That Cabinet approve the use of current and future Affordable Housing Commuted Sums to purchase and refurbish dwellings, or renovate existing surplus residential council assets, for the purpose of providing temporary accommodation to homeless households, where allowed by the terms of the section 106 agreements that provided the funding
- 3.2 That Cabinet delegate authority to the Director of Customer Engagement, in consultation with the Portfolio Holder for Regeneration, to agree the individual proposals for use of current and future Affordable Housing Commuted Sums for the purchase and refurbishment of dwellings, or renovation of individual surplus residential council assets, subject to a sound business case providing details of rental income stream that covers all associated revenue expenditure, for the purpose of providing temporary accommodation to homeless households.

4. Report detail - know

Context

- 4.1 The Black Country Core Strategy (BCCS) sets out Walsall's policy on securing affordable housing contributions through the residential planning system. It seeks 25% affordable housing on any site of 15 or more self-contained dwellings, where financially viable. Where it is not possible to provide the affordable housing contribution on site, saved Policy H4 (g) of Walsall's Unitary Development Plan, and the National Planning Policy Framework (NPPF), allows for an off-site contribution, subject to an equivalent level of affordable housing need being met. There is no exhaustive list of circumstances where an off-site contribution is warranted, but the policy states it can include meeting of other policy objectives, or economics of housing provision. This off site contribution can either be made by providing affordable housing on another site, or as a financial contribution, typically referred to as a commuted sum. This policy is further expanded in the Council's Supplementary Planning Document (SPD) for Affordable Housing (2008), which is due to be revised and presented to Cabinet in 2022. A number of the financial contributions occur where the planning application proposes an all flatted scheme, typically in single or large blocks, where the HAs are not willing to take affordable flats on a leasehold basis in a block where the freehold is held by another party.
- 4.2 The SPD for Affordable Housing states that the affordable housing contributions must be used in line with the Council's Housing Strategy, which has as an objective prioritising the purchase of dispersed temporary accommodation units for homeless households. The SPD also states that the commuted sums are calculated on the basis of the sum required to provide an equivalent amount of affordable housing elsewhere in the borough. This figure is calculated by using information from the two largest developing HAs in Walsall (whg and Greensquare Accord) on how much it would cost per unit to develop affordable housing, and multiplying it by 25% of the total dwellings on site. This cost per unit figure is updated annually. It is then a matter for the Planning Committee determining the planning application as to whether to accept the affordable housing contribution instead of having on-site affordable housing.

- 4.3 These affordable housing contributions (either on site or commuted sums) are secured through Section 106 of the Town and Country Planning Act (1990), and are often referred to as Section 106 contributions. Affordable housing is not the only contribution sought, and on applicable developments, contributions to other matters are sought, including open space, highway works and sometimes education and/or health contributions. There are a number of occasions where a reduced or zero contribution to affordable housing is secured due to the acceptance by Planning Committee, following the submission of a financial viability appraisal by the applicant, that the scheme would not be viable if some or all of the contributions were sought. The Committee receives independent advice on the financial viability appraisal, which has to be funded by the planning applicant.
- 4.4 The total Affordable Housing commuted sums received (after a deduction of 1.5% monitoring fee) is £1,538,103. A maximum of £274,994 of this sum is being used to purchase two long term empty properties that were vested in the Council following approval by this Cabinet for officers to progress the Compulsory Purchase Order (CPO) process. This Cabinet has also subsequently agreed that AHCS could be used to fund the purchase of properties obtained through any future CPO process. The remaining uncommitted balance of the AHCS is therefore £1,263,109. It is estimated that this uncommitted balance could purchase and refurbish a maximum of up to 10 additional homes at an average cost of around £125,000 to be used as temporary accommodation for homeless households. This number will vary dependent on house price increases and the final costs of purchase and refurbishment, which is currently being significantly affected by build cost inflation, and is a guide only. For comparison purposes it is estimated that this balance would only be able to fund 7 additional new build affordable homes at an average £175,000 per unit land and build cost. The proposal to purchase existing homes also has the benefit of bringing long term empty homes back into use. These homes would need to have rents charged at Affordable Rent levels, as defined by the National Planning Policy Framework (NPPF), to ensure that they meet with the spend requirements of the AHCS.
- 4.5 The Council is obliged by the Housing Act 1996 to provide temporary accommodation to homeless families who are in priority need. The Council currently has four temporary accommodation (TA) blocks containing up to 102 units, and the two dispersed units previously mentioned. Walsall's Homelessness Strategy states that an options appraisal is required to move to a dispersed TA service. During 20/21 we have carried out a dispersed TA pilot which included renting several HA properties on licence. This pilot included the ability, at the discretion of the relevant HA, for the homeless family to remain in the property and be offered a secure tenancy, if assistance were to be provided following the homelessness investigation. A full options appraisal and business case regarding any potential change to our TA provision to a more dispersed model, will be reported to this Cabinet for approval in 22/23. In the meantime, an increase of TA units to cope with potential additional demand is recommended due to:
- the potential increase on TA demand brought about by the end of the Government's Covid 19 eviction ban (from 1 June 2021), and

- reduction (from 1 October 2021) to the pre Covid minimum two month notice period for S21 notices, which are the most common mechanism for Private Rented Sector (PRS) landlords to begin possession proceedings.

In the event any of these newly purchased dwellings become surplus to requirements due to any future review, they can then be sold, and the proceeds would be recycled and ringfenced for the provision of affordable housing, and a further report would be brought to cabinet if an amended Scheme was proposed.

4.6 The following scheme principles are proposed:

- All current and future AHCS are pooled for the purchase and refurbishment of dwellings, and/or refurbishment of surplus residential council assets, to provide temporary accommodation for homeless households
- All homeless temporary accommodation purchased and/or refurbished by this fund will be provided at Affordable Rents as defined in the NPPF
- A mix of property types and sizes will be purchased and/or refurbished
- Properties will be dispersed across the borough, subject to availability and price
- A focus on purchasing properties that have been empty for the longest period of time, including those that have successfully been subject to CPO process, but again this is subject to availability, timescales and price
- Each property will become part of the council's temporary accommodation portfolio, and homeless households placed in these homes will be supported by the Council's temporary accommodation tenancy support team
- A financial appraisal will be prepared for each potential purchase/refurbishment, in conjunction with the Council's Corporate Landlord service. This will include costs for purchase, refurbishment, and associated fees to be met from AHCS. In addition, it will consider repairs, safety testing, void management and intensive housing management costs to be met from the resulting rental income or existing budgets as necessary.
- All properties will be inspected by the Council's Housing Standards team, and comply with a minimum EPC rating C if financially viable, either at purchase or following completion of works
- The scheme will be monitored quarterly, reviewed annually, and any amendments to the Scheme will be reported back to Cabinet for approval

4.7 The planning contribution requirements for affordable housing are in addition to the substantial amount of affordable housing that is provided through housing association led schemes, which are typically grant funded by Homes England. Over the last five years (2015 to 2020), 924 affordable homes have been completed by our HA partners, through Homes England grant funded schemes. In addition, there is also a requirement by the West Midlands Combined Authority (WMCA), where they provide brownfield land remediation grants, that at least 20% of the development must be affordable housing.

Council Corporate Plan priorities

4.8 The Scheme will contribute to the Council's priorities as follows:

- Economic growth for all people, communities and businesses – homelessness remains a key barrier to accessing employment, and so access to an increased

range of fit for purpose temporary accommodation options, can help increase employment prospects whilst homelessness investigations are made.

- People have increased independence, improved health and can positively contribute to their communities – homeless households will be provided with help and guidance through the tenancy support team in these new homes.
- Communities are prospering and resilient with all housing needs met in safe and healthy places that build a strong sense of belonging and cohesion – ensuring that homeless households have access to a range of quality temporary accommodation whilst their housing needs are being addressed. In addition, the purchase and repair of long term empty homes can improve the visual amenity of a community, and potentially reduce anti-social behaviour and neighbourhood nuisance linked to these properties.

Risk Management

- 4.9 There is a risk that those commuted sums with repayment dates will have to be repaid to developers if the Council doesn't put a clear spend plan in place.
- 4.10 There is a risk that there will be an increase in homeless households requiring temporary accommodation following the ending of the Government's Covid 19 eviction ban, and following the return to the two month S21 notice period (from 1 October 2021), affecting those living in the Private Rented Sector. This proposal will increase the council's supply of temporary accommodation, in a way that will also match the recommendations contained with the Cabinet approved Homelessness Strategy 2018 to 2022, and Housing Strategy 2020 to 2025.
- 4.11 There is a risk of not being able to source enough properties that are both affordable, and dispersed across the borough.

Financial Implications

- 4.12 The total Affordable Housing commuted sums received (after deduction of 1.5% monitoring fee) is currently £1,538,103. Up to £274,994 has been committed, leaving an uncommitted balance of £1,263,109. The current and future AHCS must be used in accordance with requirements of the relevant clauses in each individual S106 agreement, and by the repayment date (if any), otherwise there is a risk of clawback
- 4.13 The proposal is that the cost of purchase and refurbishment of dwellings on the open market, or refurbishment of surplus residential council assets, and all associated fees, is met from the AHCS ie no additional borrowing will be required. The revenue costs of repairs, safety testing, void management, and intensive housing management element of the tenancy support staff will be covered through the rental income or existing budgets where necessary. The AHCS must be used to provide affordable housing, which is defined in National Planning Policy Framework (NPPF) that rents will be set at 80% of open market rent for these properties. These rents will be determined as part of the financial appraisal process on a property by property basis, and agreed with the Housing Benefit team accordingly

Legal Implications

- 4.14 External legal advice was sought in June 2017. The advice note concluded 'that the Council would be able to own and manage temporary housing acquired or constructed using developers' contributions made by section 106 obligations for the purpose of providing affordable housing'.

Procurement Implications/Social Value

- 4.15 Any contracting activity will be undertaken in compliance with Public Contracts Regulations 2015 (PCR) and the Council's Contract Rules. Where appropriate Local Sourcing will be used to support this Scheme.

Property Implications

- 4.16 The Corporate Landlord will manage the purchase of properties, and will advise on the viability implications of each individual purpose. The Corporate Landlord will also advise of any redundant surplus residential council buildings that may be suitable for use as TA for homeless households, if AHCS were invested in the repair, refurbishment and/or remodelling of these assets. The identification of any potential redundant residential council assets to be used for this purpose, will be in line with the Disposal, Investment and Acquisition Policy and the Disposals Strategy which form part of the Strategic Asset Plan 2022-27.

Health and Wellbeing Implications

- 4.17 The health and wellbeing prospects for the homeless families and their children who are placed in these dispersed accommodation units will potentially be improved in comparison of the alternative of using bed and breakfast accommodation if the Councils existing TA stock was full.

Staffing Implications

- 4.18 The scheme will be managed by MHJ officers with significant assistance from the Corporate Landlord teams.

Reducing Inequalities

- 4.19 An Equality impact Assessment (EQIA) is attached at **Appendix B** and shows a need to continue monitoring the protected characteristics of those accessing our homeless services and temporary accommodation.

Climate Change

The proposal is expected to have a positive impact on climate change, with all properties that are purchased and / or refurbished, to have relevant works carried out to improve the EPC level, aiming for a minimum EPC rating C where financially viable.

Consultation

- 4.21 Internal consultation with the Council's Assets, Legal and Planning teams, has resulted in confirmation that this is a legitimate use of the funds, and helped develop a plan for how they could be used.
- 4.22 Views on the proposals were sought from Scrutiny Overview Committee on 9 November 2021. The Committee were supportive of the use of AHCS to purchase empty homes to be used as accommodation for homeless households.

5. Decide

5.1 The following options below need consideration:

- There is a 'do nothing' option. The majority of the individual AHCS do not have a repayment date, and the funds could just remain unspent for the time being. However, this would not make best use of resources, which could be used to provide quality temporary accommodation for homeless families. In addition, for those individual AHCS that do have repayment dates, this option could result in the loss of this funding through clawback.
- The Council could use the AHCS funds to increase our temporary accommodation assets, and this is recommended as it provides a greater range of options for homeless households, and an ability to respond to any increased demand levels. In addition, this option provides the flexibility that the Council would be at liberty to resell these units at any point (as there would be no finance/charge on the properties), and recycle these receipts for another affordable housing use.
- The Council could borrow additional funding and use the AHCS to provide deposits and service the debt. This potentially increases the number of temporary accommodation units that can be provided, but creates a debt for the Council. The 100% funded purchase or refurbishment of properties is the lower risk option, and provide greater unencumbered flexibility for resale of the assets.
- The Council could use the ACHS for an alternative affordable housing use, such as grant funding HAs to build affordable housing. However, HAs already receive grant funding from Homes England for this purpose.

6. Respond

6.1 Subject to approval, officers would commence the process of purchasing appropriate dwellings, and/or identifying redundant surplus council assets (through existing corporate Landlord governance processes) for refurbishment as affordable housing. Each individual proposal will be submitted to the Director Customer Engagement, in Consultation with the Portfolio Holder Regeneration, for approval.

7. Review

7.1 The project will be monitored by a dedicated MHJ project lead.

Background papers

- Black Country Core Strategy (BCCS) - <https://blackcountryplan.dudley.gov.uk/t1/>
- Supplementary Document for Affordable Housing - https://go.walsall.gov.uk/Portals/0/images/importeddocuments/supplementary_planning_document.pdf
- Walsall Cabinet – 29 April 2015 - Use of Compulsory Purchase Powers for long term empty dwellings
<https://cmispublic.walsall.gov.uk/cmisis/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/563/Committee/258/Default.aspx>
- Walsall Cabinet – 18 March 2020 - Tackling Long Term Empty Dwellings
<https://cmispublic.walsall.gov.uk/cmisis/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/2854/Committee/406/Default.aspx>

Author

Neil Hollyhead
Senior Housing Strategy Officer
☎ 07943 500394
✉ neil.hollyhead@walsall.gov.uk



Sally Rowe
Executive Director Children's &
Customer
3rd December 2021



Councillor Andrew
Portfolio holder Regeneration
3rd December 2021