

## CABINET

20 February 2018

### PRIORITISED PROGRAMME FOR SPENDING OF COMMUTED SUMS FOR AFFORDABLE HOUSING

Report of the Chief Executive

Strategic Aim:	All	
Key Decision: Yes	Forward Plan Reference: FP/011117	
Exempt Information	Yes. Appendix B of this report contains exempt information and is not for publication in accordance with paragraph 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972.	
Cabinet Member(s) Responsible:	Mr O Hemsley, Leader and Portfolio Holder for Rutland One Public Estate & Growth, Tourism & Economic Development, Resources (other than Finance and Communications)	
Contact Officer(s):	Helen Briggs, Chief Executive	01572 758201 hbriggs@rutland.gov.uk
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Ward Councillors	All	

#### DECISION RECOMMENDATIONS

That Cabinet:

1. Approves the priorities in section 3 of this report.
2. Approves an affordable housing commuted sum expenditure project of £420,000 for inclusion in the capital programme.
3. Authorises the Chief Executive to allocate funding, prior to a bidding process for external grant applications, from within the £420,000 budget for an extension of a Council-owned property to create a five- or six-bedroomed house in consultation with the Portfolio Holder for Rutland One Public Estate & Growth, Tourism & Economic Development, Resources (other than Finance and Communications), subject to feasibility.
4. Authorises the Chief Executive and/or the Director of Places to undertake a bidding process for grant applications from housing associations and from within the Council, setting out in a separate document for bidders the priorities in section 3 and the details

of the scoring matrix to be used by the Council.

5. Authorises the Chief Executive and/or the Director of Places to hold informal discussions with the bidders if appropriate.
6. Requests that the Chief Executive and/or the Director of Places bring a further report to Cabinet on the outcome of the bidding process and recommending a way forward, including proposed budget recommendations.

## **1 PURPOSE OF THE REPORT**

- 1.1 To develop a prioritised programme for spending commuted sums for affordable housing that have been collected through Planning Obligations.

## **2 BACKGROUND AND MAIN CONSIDERATIONS**

- 2.1 The Council currently holds a number of commuted sums from developers totalling £419,291 for the provision of off-site affordable housing, with additional payments expected over perhaps the next 18 months or so, depending on construction rates totalling £641,588 (plus indexation).
- 2.2 One of the targets in the Housing and Homelessness Strategy 2017-22 is, “To develop priorities and a programme for the spending of commuted sums for affordable housing.” This Strategy adds, “Decisions regarding affordable housing expenditure need to be made which provide good value for money, are appropriate for the local community and which are sufficiently timely to take advantage of opportunities.”
- 2.3 The proposals in this paper would help to deliver all four of the Council’s Strategic Aims:
  - Sustainable Growth
  - Safeguarding
  - Reaching our Full Potential
  - Sound Financial and Workforce Planning
- 2.4 The proposed way forward is similar to that operated by a number of other councils and includes:
  - an annual budget addressing priorities approved by Members as part of the capital programme
  - a bidding process for projects to receive funding, including external bids
  - delegated approval of individual projects including Portfolio Holder involvement and monitoring of the programme. Under RCC’s existing delegations the Chief Executive may authorise expenditure of up to £50,000.
- 2.5 The Strategic Housing Market Area assessment (SHMA) 2014 states that the majority of affordable housing need is for rented housing.
- 2.6 The funds currently held are from a wide range of open market housing schemes, with differing conditions and timescales. Subject to the normal governance approvals, it is proposed that Officers in Planning Policy will match potential

development opportunities with the conditions and expectations for the various individual commuted sums that may fund a particular project. Under the terms of the Capital Investment Strategy considered by Cabinet on 16 January 2018, this expenditure would be a service investment rather than a commercial investment.

- 2.7 The section of the Planning Obligations Supplementary Planning Document 2016 which covers the spending of affordable housing commuted sums is attached at Appendix A. This process takes account of the Housing and Homelessness Strategy and local affordable housing need, including the Strategic Housing Market Assessment, when prioritising expenditure.

### **3 SETTING PRIORITIES**

- 3.1 These off-site contributions can play an important role in enabling specific priorities to be funded that may be hard to deliver viably on an open market development and for which sufficient Government grant may not be available. This helps to broaden the range of new affordable housing provision, through the Council having much more control over how the money is spent. Whilst the budget may appear substantial, the affordable housing commuted sums in this paper are only a relatively small part of a much larger development programme by the Council's partners which also includes homes funded by on-site developer contributions or by grant from Homes England (formerly the Homes and Communities Agency).
- 3.2 The Council's strategic Homelessness Review carried out in 2016 highlighted a need for larger properties. Currently, there are at least three households with a particularly acute need for a five or six bedroom property. Even allowing for children sharing bedrooms where appropriate, the families are generally overcrowded by at least two bedrooms currently and typically have a number of challenging or problematic issues where lack of space is a major contributing factor. Other families in Rutland may be similarly overcrowded, although with fewer other issues at present. The Housing Options team report that the number of large families in housing need is a trend and the increasing pressure from benefits changes may cause a further increase. There are only three rented affordable houses in Rutland with five or more bedrooms and turnover of these is low.
- 3.3 There is also a need for two or three dwellings for occupation typically by two residents with learning disabilities per dwelling and including staff sleeping accommodation, to enable some out of county placements to be ended in line with national policy and possibly saving the Council up to £50,000 per year per customer. It should be possible to meet some or all of this need through the use of Transforming Care Capital Grant as agreed by Cabinet on 21 November 2017 (Report No. 197/2017). However, this may not meet all of the need in the medium term and this specialist affordable housing should still be a potential priority for section 106 commuted sums.

### 3.4 **First priority**

3.5 It is suggested that the first priority be larger affordable general needs rented accommodation of five bedrooms or more, through extension, conversion, acquisition or new construction. In some existing large households, there are two or three generations of adults in the same property. Some families may be happy to move to (for instance) two three-bedroomed family houses that are close to each other, which could partially address the need for very large properties. Therefore, it is suggested that an initial target of two large properties is appropriate.

### 3.6 **Second priority**

3.7 The second priority would then be the improvement or provision of other rented affordable accommodation. This might include, for example, accommodation for people with learning disabilities, subsidy for housing associations to convert shared ownership properties to rented, or Council or external bids for a three-bedroomed family property to replace any that were enlarged.

## 4 **DELIVERING THE PROGRAMME**

4.1 There are a number of possible forms of provision, such as subsidy to housing associations for new properties (which can lever in substantial resources from the associations' borrowing power), or direct provision by the Council which tends to be more capital intensive but can sometimes deliver more quickly. The Council has considered extending an existing property which it owns. If this is shown to be feasible following further technical work, it is proposed that the funding for this could be top-sliced from the £420,000 capital budget prior to the bidding process described below. This would be to enable timely delivery, subject to planning consent.

4.2 In order to encourage further innovation and value for money, it is suggested that internal and external bids be invited in Spring 2018. Officers will score specific bids against housing need, quality, deliverability and ongoing costs/ savings. Full details of the scoring matrix will be made available when bids are invited. A clear exit strategy will be in place in case any housing for people with special needs not be required at a future date.

4.3 This broader bidding process will include a specific target of two large properties to start on site in 2018/19. The target would include any extension of a council owned property authorised prior to the bidding process. Further work would be needed before a budget could be set, but the approximate combined cost of an extension is likely to be around £115,000 if a two-storey extension is required. However, it may be the bidding process could identify efficiencies in funding or delivery and it is possible that some properties could be increased in size without the need for a two-storey extension.

4.4 There would also be the opportunity for bids to be submitted for other forms of affordable rented housing prioritised in section 3. A further report will be brought to Cabinet to confirm the prioritised scheme following the bidding process.

<b>Timeline:</b>		
<b>Task</b>	<b>Target Date</b>	<b>Responsibility</b>
Consideration by Growth, Infrastructure and Resources Scrutiny Panel	Meeting on 15 February	Chief Executive
Cabinet	Meeting on 20 February	Chief Executive
Authorisation of project to extend Council-owned property, if feasible.	Early Spring 2018	Chief Executive
Internal and external bidding process	Spring 2018	Chief Executive
Further report to be brought to Cabinet regarding proposed programme.	Early Summer 2018	Chief Executive / Director of Places
Commencement of two enlarged family houses, subject to planning.	2018	Director of Places
Other delivery	To be confirmed through bidding programme and capital programme	Director of Places

## **5 CONSULTATION**

- 5.1 The Council consulted extensively during the production of its Housing and Homelessness Strategy and the relevant Supplementary Planning Documents. Informal discussions with housing associations show that they may have a preference for new build accommodation. The bidding process will allow a range of approaches to come forward and to be assessed for value for money.
- 5.2 Schemes regarding planning consent will be consulted upon in the normal way during the planning process.

## **6 ALTERNATIVE OPTIONS**

- 6.1 The Council could seek to spend all the section 106 commuted sums itself, but we do not have the capacity to do this efficiently in a short period of time and still achieve value for money.
- 6.2 The Council could rely on housing associations to use all of the affordable housing commuted sums, but this would mean that the Council would not have the opportunity of delivering some of the accommodation itself in a timely way. It would also leave the Council completely reliant on external bids.
- 6.3 The Council could have less of a focus on meeting the needs of larger families through affordable housing commuted sums, but this would be harder to meet in other ways in the short term.

## **7 FINANCIAL IMPLICATIONS**

- 7.1 The budget process being taken forward for 2018/19 has reflected the availability of this funding, but the MTFP (revenue account) or Capital programme will not show this as programmed expenditure until the spending profile is clearer, which will be later on in 2018/19. A rolling programme will be developed as further receipts come in over time. The Council will not commit this expenditure until the relevant income has been received.
- 7.2 Some large families cope well and the challenges they encounter may be limited primarily to housing and everyday financial issues.
- 7.3 However, some other large families may require social care support for a number of issues, which can be exacerbated by overcrowding. If the care of the children could not be met within a family home in the event of a family breakdown, this would be a considerable financial pressure on the Council which could total between approximately £100,000 and £300,000 per year for a family, not including Council staff time or transport costs.
- 7.4 Whilst it is good practice to spend commuted sums within five years of receipt, there is no current agreement that requires expenditure before 2020. However, the need for larger accommodation for some families is urgent. A bidding process and clear priorities will help to ensure value for money and promote timely delivery and innovation. It will be important to attract sufficient bids and to have sufficient Officer time to administer the process.
- 7.5 The Council holds commuted sums totalling £419,291 for the provision of off-site affordable housing, with additional payments expected over perhaps the next 18 months or so, depending on construction rates totalling £641,588 (plus indexation). The Council needs to ensure that these payments are spent in a timely way, ensuring value for money and compliance with the requirements of Planning Obligations. This will be monitored with the assistance of the Exacom computer system.

## **8 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 8.1 The Council is able to make grant payments to housing associations for rented accommodation under sections 24 and 25 of the Local Government Act 1988, using "The General Consent under Section 25 of the Local Government Act 1988 for Financial Assistance to any Person 2010".
- 8.2 This report aims to set out priorities for section 106 commuted sums for affordable housing and delegates authority to the Director for Places to undertake a bidding process and to report back to Cabinet, which would include a proposed programme for approval and a proposed budget to recommend to Council.
- 8.3 Appropriate terms and conditions will need to be included for any grant paid, including the agreement to a restriction on the property to the land the subject of the grant to protect the affordable housing use in the longer term and with provision for repayment of the grant (on a sliding scale) and removal of the restriction if the land is no longer required for affordable housing. Housing Associations have a standard term which accepts such a restriction except if they become insolvent and the land is repossessed by the mortgage lender. In this circumstance the restriction falls away and the lender is able to transfer the land

without the restriction. Entering into the Grant Agreement will be completed in accordance with the Council's Contract Procedure Rules.

- 8.4 Commuted sums under s106 agreements must be used in accordance with the terms of the agreement. The Council's standard s106 agreement states that The Affordable Housing Contribution shall be used or applied by the Council for or towards the provision by the Council or a Registered Provider of Affordable Housing within the administrative area of the Council and as such this policy would be an appropriate use of the funds received. If an alternative use is agreed as part of the s106 negotiations the funds would not form part of this general fund.
- 8.5 In line with the Council's Finance Procedure Rules, Cabinet can approve additions to the capital programme of up to £1m.

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 An Equality Questionnaire has been completed. No adverse impacts were found. The main differential impact was a positive one for larger families with children which was proportionate and justified.

## **10 COMMUNITY SAFETY IMPLICATIONS**

- 10.1 The increased provision of satisfactory housing will help to further the Community Safety priorities in the Housing and Homelessness Strategy 2017-22.

## **11 HEALTH AND WELLBEING IMPLICATIONS**

- 11.1 The Housing and Homelessness Strategy 2017-22 states that housing is one of the 'wider determinants of health'. These proposals will help to meet the needs of those who do not have satisfactory housing. This will help to support their health and wellbeing needs, which in some cases may include social care needs.
- 11.2 The Housing Allocation Policy gives a high priority to households which have significant levels of overcrowding due to its health and wellbeing implications. The Homelessness Review 2016 highlights that there is a severe shortage of larger properties. These proposals for spending the section 106 commuted sums will help to address these needs.

## **12 ORGANISATIONAL IMPLICATIONS**

### **12.1 Environmental implications**

- 12.2 Depending on the scale and nature of the physical works, planning consent may be required.

### **12.3 Procurement Implications**

- 12.4 If the Council provides a grant to a housing association under legislation that specifically permits this and the Council does not own the asset, this is different from a contract agreement. It will be down to the provider to design and deliver the affordable housing and although the Council will review the proposals to ensure value for money, it will have no control over what is built. Therefore it is not a procurement route and is outside the scope of public procurement rules. The Council will still need to ensure that the process is fair and constitutes good

value for money and that the payment remains within the exemptions in the State Aid rules. A grant agreement would be put in place to support this expenditure, with appropriate grant conditions attached to facilitate the provision of the Council's desired outcomes for the funding. This helps the Council to meet specific needs in a timely way with the assistance of its housing association partners.

- 12.5 If the Council carries out works on its own properties these would be subject to procurement by the Council in the normal way.

### **13 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 13.1 The proposals in this report will enable affordable housing commuted sums to be spent to meet a range of local housing need and to achieve value for money.

### **14 BACKGROUND PAPERS**

- 14.1 'Affordable Housing Commuted Sums' summary table.

- 14.2 Homelessness Review 2016 v1.1.

### **15 APPENDICES**

- 15.1 Appendix A. Use of commuted sums Received for Affordable Housing [extract from the Council's Planning Obligations Supplementary Planning Document, adopted January 2016]

- 15.2 Exempt Appendix – Appendix B is marked as “Not for Publication” because it contains exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972, namely anonymised summary information which relates to individuals' circumstances and whose identities may be likely to be revealed if this information is published locally.

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