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HAVANT BOROUGH COUNCIL

MEETING CABINET

Meeting Date 12/10/2016

REPORT TITLE

Developers' Contributions for Affordable Housing

FOR DECISION

Cabinet Lead for Communities and Housing Cllr Leah Turner

Key Decision: Yes

1.0 Purpose of Report

1.1 To determine a set of both principles, and specific projects which Developers' Contributions for Affordable Housing, collected through the planning system, can be spent.

2.0 Recommendation

2.1 Cabinet approve this procedure for spending Developers' Contributions for Affordable Housing, attached as Appendix A,

2.2 Approval to spend Developers' Contributions for affordable housing is delegated jointly to the Cabinet Lead for Communities and Housing, and the Head of Housing, for the projects and set of general principles detailed in this report. This authority will extend up to the spending limits detailed in the report.

2.3 Approval is given to allocate up to £60,000 of the Developers' Contributions budget towards the provision of temporary accommodation suitable for single homeless persons to reduce the costs of Bed & Breakfast accommodation to the Council.

2.4 Approval is given to use the Developers' Contributions budget to increase staff resources if required.

3.0 Summary

3.1 Historically Havant Borough Council had not accumulated Developers' Contributions specifically for affordable housing; planning policy requirements were previously met by the provision of on site units and suggestions of financial sums in lieu of onsite provision was actively discouraged.

However, the Havant Borough Council Housing SPD adopted July 2011 makes clear reference to the Council's strategy in respect of any contributions accepted in lieu of on-site affordable housing, the ring-fencing of the monies to be used to meet the council's affordable housing objectives, and the options for spending those accrued funds.

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The subsequent National Planning Policy Framework published in March 2012, goes on to reinforce this HBC strategy with its emphasis on the '*presumption in favour of sustainable development*' which should be seen as a golden thread running through both plan-making and decision taking' and the importance of viability in plan-making so that plans are deliverable. That document together with the adopted HBC planning policies such as the Core Strategy, the above mentioned Housing SPD, and the Developer Contributions Guide November 2013, all suggest a degree of flexibility when negotiating planning obligations. For this reason, where scheme viability has been shown to be a significant factor the Council has agreed to accept a number of financial contributions in lieu of on site provision. This paper sets out proposals for spending these sums to support the provision of affordable housing within the Borough.

- 3.2** To keep up with demand for affordable housing some 292-368¹ affordable homes will need to be built annually, with current supply running at an average of 156 affordable homes per annum (based on the previous 3 years). There are currently (05/08/2016) 1881 households in housing need, registered on Hampshire Home Choice for rented accommodation in the Borough, plus 914 (latest available figures 01/04/2016) applicants to the Help to Buy Register seeking Intermediate housing options.
- 3.3** Developer's contributions are ring-fenced for the provision of affordable housing. It is expected that the Council will continue to collect Developers' Contributions as a result of new planning policies, and the continued submission of major planning applications.
- 3.4** This report identifies a number of spending opportunities as well as a series of general principles outlining how Developers' Contributions may be spent in the future.
- 4.0 Subject of Report**
- 4.1** The current balance for Developers' Contributions for affordable housing is £421,421.00(not including inflation and interest). £152,139.00 is still to be paid to the Council by developers under existing S106 agreements and an additional £218,043.00 is agreed pending completion of the S106.
- 4.2** Paragraph 50 of the National Planning Policy Framework was published and Implemented in April 2012 and includes a statement that local authorities should:
- "where they have identified affordable housing is required, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities".*
- 4.3** The national and local priority is always to provide affordable housing on site, but where a financial sum is collected there is the flexibility to fund strategic priorities

¹ South Hampshire Strategic Housing Market Assessment (January 2014) and the Objectively Assessed Housing Need Update (April 2016)

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such as making better use of existing housing stock. This could include the use of intermediate rented accommodation or temporary accommodation for homeless households as well as other affordable housing projects.

4.4 Housing Officers have met with Legal and the Community Infrastructure Officer to discuss the flexibility on spending Developers' Contributions, as outlined in this report.

4.5 The following list of potential spending options is not exhaustive, and may change over time, depending on needs and opportunities:

- Fund a Registered Provider to purchase properties on the open market for social, affordable, intermediate rent or for affordable home ownership options. Affordable Housing is becoming increasingly difficult to secure through HBC's traditional S106 route. This type of funding will enable additional affordable housing units over and above those which are gained through Planning Policy requirements.
- Fund purchase of land for development by a Registered Provider.
- Make grant contributions to a Registered Provider towards site development and / or construction costs on land already owned by the Council or Registered Provider - to bring forward development and/or improve tenure mix and enhance affordability for rental and affordable home ownership options
- Fund a Registered Provider to purchase suitable, completed new build units 'off the shelf' from a developer for rental /affordable home ownership
- Fund a Registered Provider to build new accommodation or convert / refurbish existing stock or private premises into suitable temporary accommodation to be used by the Council to discharge its duty under the Homeless Persons Legislation
- Where site viability results in affordable housing provision well below policy requirements, to fund a Registered Provider to procure additional affordable homes above S106 requirements. Some brownfield sites in Havant are constrained by viability issues and would benefit from this use of Developer Contributions.
- Fund any and all costs to the Council associated with negotiating and spending Developers' Contributions. This includes direct staffing costs associated with time spent on planning applications, sites or projects that best meet the Council's strategic housing priorities.
- Fund any direct project costs, including site surveys, consultant's reports, site mitigation, security, site clearance and any other feasibility or enabling costs, as required, on projects to provide any permanent or temporary accommodation using Developers' Contributions.
- To encourage innovation within new affordable housing that may not be funded from other means.

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- Fund any other projects, resources or services not listed within these general principles, but fall within the spending parameters and are in the spirit of the procedure.

4.6 Where funds are used to promote the release of existing homes for rent or provided as grant to Registered Providers to acquire or develop homes for rent or affordable home ownership, the Council will receive 100% nomination rights through Hampshire Home Choice or by direct referral in the case of temporary accommodation.

4.7 In addition to the set of potential spending principles in 4.5 a spending opportunity has already been identified and is detailed below:

Temporary accommodation project –

- *To allocate up to £60,000 of Developers' Contributions to Havant Housing Association (HHA) or other Registered Provider for the purpose of providing temporary accommodation for single homeless persons. HHA are currently in negotiations with The Guinness Partnership in order to purchase a large single dwelling to convert into shared accommodation, assuming the necessary planning consents are obtained.*

HHA will own and manage the accommodation, with additional support being provided by an outside agency. This project will be part-funded jointly by HBC and EHDC which will allow for conversion and refurbishment of the property to provide 5/6 rooms depending on the results of any survey report.

The Housing Teams from both local councils will use the units for statutory homeless persons for whom the Councils have a duty to provide accommodation. These persons would otherwise have been placed in Council funded B&B accommodation.

4.8 It is proposed that delegated authority would extend only to sites, projects and support services which fall within the following parameters. Any applications for funding which fall outside of the scope of the delegated authority will be referred back to Cabinet for approval.

- Affordable housing may be funded at a grant rate up to £50,000
- Funding for staff resources, feasibility or enabling work as outlined in the report may not exceed £25,000 per project.
- Total expenditure on any one project may not exceed £150,000; however should a viable project be identified, and funds are available, an additional report will be submitted to Cabinet.

5.0 Implications

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5.1 Resources:

- The current balance for developers' contributions for affordable housing is £421,421.00 (not including inflation and interest). £152,139.00 is still to be paid to HBC by developers under existing S106 agreement milestones. Projects to spend, identify future investment opportunities, and negotiate Developers' Contributions, will have a significant impact upon officer time.
- The Council's B&B expenditure for 2015/2016 for single persons was £39,689 for 19 placements. In Q1 of 2016/17 the expenditure is already at £2,210 due to the increase in applications from statutory homeless persons and a lack of availability of temporary accommodation to place them. If current trends continue the 2016/17 outturn is likely to be significantly up on the previous year.

5.2 Legal:

- Where the Council accepts a financial contribution in lieu of on-site provision of affordable housing this will be secured through a legal agreement under s106 Town and Country Planning Act 1990.
- The developer will usually require a covenant from the Council to spend the affordable housing contribution only for the provision of affordable housing in accordance with the agreement and, if asked, to return it to the developer if it has not been spent within a specified period (usually between 5 and 10 years).
- The Council's Housing Supplementary Planning Document adopted July 2011 states that financial contributions made in lieu of provision of on-site affordable housing will be ring-fenced and used to meet the Council's affordable housing objectives and in agreeing the procedure set out in this report the Council will show how this will be achieved in practice.

5.3 Strategy:

HBC Corporate Strategy 2015 – 2020 mission is to ensure that the communities of Havant will be increasingly prosperous, vibrant and active. To achieve this one of the priorities is to “improve people's lives by providing excellent public services that represent good value for money and meet our communities' needs”. One of the operational priorities which deliver the Corporate Strategy mission is Environmental Sustainability. There is an opportunity to support this by using developers' contributions where there may be gap funding, to ensure keeping pace with modern methods of construction and advances in renewable technologies.

5.4 Risks:

- The risk of not spending Developers' Contributions within the legally designated period will require the money to be paid back with interest. Within the current budget of collected funds £123,927.16 must be spent by 2025 or it must be returned, with interest.
- A streamlined procedure and set of principles for spending Developers' Contributions is required to justify the need to collect contributions. The

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risk of not scoping spending opportunities could mean the Council are not complying with paragraph 50 of the NPPF (referred to in 4.2) and developers will challenge future attempts to collect Developers' Contributions through S106 agreements.

- Not spending the contributions means that the Council is not maximising the delivery of affordable housing in the Borough.
- The risk of not using the Developers' Contributions budget to part-address the shortage of temporary accommodation will result in additional cost to the Council's B&B budget, plus an increased risk of the Council failing in its duty to accommodate single homeless persons.
- The risk of not allocating sufficient staff resources to pro-actively identify spending opportunities for Developers' Contributions increases the impact of the above risks

5.5 Communications: Due to the nature of the report a full external communications plan will not need to be developed. However, all active Registered Providers will be notified of the policy should it be approved. They have already been made aware of the proposal which replicates what is already happening in East Hampshire.

5.6 For the Community:

The use of Developers' Contributions will be to provide affordable housing of a range of sizes, type and tenure that would not have otherwise come forward through existing S106 agreements. Affordable housing provision not only benefits those in housing need, but also creates jobs and economic stimulus in an area, to benefit the wider community.

Consultation

- Head of Housing.
- Executive Director (Operations).
- Cabinet Lead for Communities and Housing.
- Community Infrastructure Officer.
- Head of Legal
- Registered Providers Liaison Group

Appendices:

Appendix A – Procedure for Allocating HBC Funding July 2016 (proposed)

Background Papers:

- National Planning Policy Framework Para 50
- Developer Contributions Guide May November 2013 – HBC document setting out CIL and Section 106 obligations

Agreed and signed off by:

Head of Legal Services: (date)

Head of Finance: (date)

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Relevant Head of Service: (date)

Cabinet Lead: (date)

Contact Officer: Julie Watson-Cowen

Job Title: Senior Housing Development Officer

Telephone: 02392 446508

E-Mail: julie.watson-cowen@havant.gov.uk

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Appendix A

PROCEDURE FOR ALLOCATING HBC FUNDING – JULY 2016

Background

Affordable housing should primarily be provided on site. Developers' Contributions will be sought where exceptional circumstances prevent onsite provision and where they are required through the Core Strategy and other Development Plan Documents. This includes sites of 11-14 net dwellings, and where a part unit is generated in the affordable housing calculation. Developers' Contributions will be used to aid the provision of affordable housing throughout the Borough, which includes financing the necessary resources, both internally and externally, to support this.

HBC will actively identify spending opportunities from this budget assisted by Registered Providers operating in the Borough. Funding required for any of the following general principles will be considered:

- Fund a Registered Provider to purchase properties on the open market for social, affordable, intermediate rent or for affordable home ownership options
- Fund purchase of land for development by a Registered Provider
- Make grant contributions to a Registered Provider towards site development and / or construction costs on land already owned by the Council or Registered Provider - to bring forward development and/or improve tenure mix and enhance affordability for rental and affordable home ownership options
- Fund a Registered Provider to purchase suitable, completed new build units 'off the shelf' from a developer for rental /affordable home ownership
- Fund a Registered Provider to build new accommodation or convert / refurbish existing stock or private premises into suitable temporary accommodation to be used by the Council to discharge it's duty under the Homeless Persons Legislation
- Where site viability results in affordable housing provision well below policy requirements, to fund a Registered Provider to procure additional affordable homes above s106 requirements. Some brownfield sites in the Havant area are constrained by viability issues and would benefit from this use of Developer Contributions.
- To compensate the Council with a capital receipt equivalent to its market value for Council owned land that is then made available to a Registered Provider at nil value, for the purpose of providing affordable housing development.
- Fund any and all costs to the Council associated with negotiating and spending Developer Contributions. This includes direct staffing costs associated with time

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spent on planning applications, sites or projects that best meet the Council's strategic housing priorities.

- Fund any direct project costs, including site surveys, consultant's reports, site mitigation, security, site clearance and any other feasibility or enabling costs, as required, on projects to provide any permanent or temporary accommodation using Developers' Contributions.
- To provide financial incentives to tenants of Registered Providers under-occupying large family homes or specially adapted properties, to enable them to move into accommodation more appropriate to their needs.
- To encourage innovation within new affordable housing that may not be funded from other means.
- Fund any other projects, resources or services not listed within these general principles, but fall within the spending parameters and are in the spirit of the procedure.

Procedure

1. Applications for funding from Registered Providers are to be made to the HBC Senior Housing Development Officer using the Application Form for Developers Contributions.
2. The Senior Housing Development Officer will assess the application to ensure it offers good value for money contributes to projects that address housing needs, meets the Council's strategic priorities and HBC Development Plan policies and NPPF policies.
3. Applications for funding from HBC Officers will be made in report format.
4. Applications from HBC / Registered Providers will be forwarded to the Cabinet Lead for Communities and the Head of Housing for approval.
5. If approved, payment will be made when the agreed milestone is reached (e.g. land acquisition, start on site, completion etc.) or in the case of feasibility / enabling works as and when payment for products or services are due within the agreed project spending limits.
6. HBC to raise a Purchase Order and pass relevant order number/s to the Registered Provider or other supplier.
7. HBC will pay the resulting invoice from the Developer's Contributions budget.
8. The Senior Housing Development Officer will report annually on expenditure, new projects and the resulting increase in affordable housing stock.

Julie Watson-Cowen
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