

**BROMSGROVE DISTRICT COUNCIL**

**CABINET**

**5<sup>th</sup> OCTOBER 2011**

**SUPPORT TO PRINCIPAL PREFERRED PARTNER REGISTERED PROVIDERS IN THE DELIVERY OF AFFORDABLE HOUSING.**

Relevant Portfolio Holder	Cllr C.B. Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Head of Community Services
Wards Affected	All wards
Ward Councillor Consulted	Yes
Key Decision	

**1. SUMMARY OF PROPOSALS**

- 1.1 In April 2011 a report was made to Executive Cabinet setting out how the Council's Principal Preferred Partners (BDHT and West Mercia Housing) were proposing to respond to Government's new framework for the delivery of affordable housing. The report provided an overview of the bid that BDHT/West Mercia were preparing to submit to the Homes and Communities Agency (HCA) in May 2011 in order to seek grant subsidy to develop up to 250 affordable dwellings over the next 4 years. The first part of this report provides an update upon progress in gaining HCA funding.
- 1.2 The second part of this report brings forward for Member approval two items under which the Council could assist and support BDHT to deliver affordable housing in the District and enhance the bid made to the HCA.
- The first item relates to the Council transferring a small piece of land at Housman Close Charford, formally used for recreation purposes, to BDHT for the development of affordable housing for older people.
  - The second item relates to the future application of the additional payment of £350 pa payable for 6 years, that local authorities are to receive upon the completion of each unit of affordable housing developed known as 'enhancement for affordable homes' under the New Homes Bonus on newly developed affordable housing units.

**2. RECOMMENDATIONS**

- 2.1 **That Members note the progress reported with regard to the BDHT/WM Housing's bid to the HCA Affordable Homes Programme.**

- 2.2 That Members approve the disposal of the recreation ground site at Housman Close, Charford (detailed at Appendix 1 of the report) to BDHT for a nil capital receipt subject to agreement being reached for the release of the covenant over the land in favour of Fields in Trust.
- 2.3 That Members approve 'in principle' and subject to budget process consideration, that the additional payments for affordable homes under the New Homes Bonus be ring fenced for re-investment into the provision of affordable homes in the District. Specifically that the amounts received in respect of the numbers of affordable homes built by each registered provider be donated to the registered provider concerned by way of grant funding to be used for the purpose of building additional affordable homes.

3. **KEY ISSUES**

**Financial Implications**

- 3.1 The Registered Provider bids to the HCA are expected to include a commitment of any resources the RP's and any other public or private bodies can make e.g. free or discounted land, local authority grant or the use of S106 contributions towards the delivery of affordable housing.
- 3.2 An up to date valuation of the land at Housman Close has been commissioned through the County Council Principal Valuer who advises that the land has no value if sold for the purpose of social housing to let and would recommend a sale price for a nominal £1. The land is in the ownership of Leisure and Cultural Services. The Head of Leisure and Cultural Services has indicated his agreement with the land being transferred as recommended.
- 3.3 The additional payment that local authorities are to receive upon the completion of each new unit of affordable housing developed, known as the 'enhancement for affordable homes' under the New Homes Bonus, amounts to of £350 pa, payable for 6 years. Based upon the Council and its partners having met its previous 5 year target of achieving an average of 80 additional units of affordable housing pa, the projected income from the 'enhancement for affordable homes' under the New Homes Bonus, from one year's delivery, could therefore be in the region of £28,000pa payable for 6 years. Over six years an affordable home would receive an enhancement of £2,100. It is estimated that based upon present and past

HCA grant rates, £28,000 would provide the subsidy required to enable a Registered Provider to develop one unit of affordable housing at Affordable Rent and approximately half of a unit at Social Rent levels.

**Legal Implications**

- 3.4 The site at Housman Close is subject to a Deed of Covenant entered into between the Council and an organisation known as “Fields in Trust”. The aims of Fields of Trust (which is the operating name for The National Playing Fields Association) are to preserve the use of certain playing fields as recreation areas for the benefit of the local community. The Deed of Covenant entered into in March 1957 prevents the Council from allowing the land to be used for any purpose other than as a playing field for the purposes of a children’s playground only.
- 3.5 In order for the planned disposal of the land to BDHT to go ahead it will be necessary for the Council to reach an agreement with Fields in Trust for the Deed of Covenant to be released. Negotiations in relation to this have been ongoing for some time. Fields in Trust initially indicated that they would require a payment of several thousand pounds in order to agree to release the covenant together with an assurance that the Council would find a replacement area to be subject to a similar covenant. Officers have identified a replacement area at the Lyttleton Avenue playing fields in Charford and are waiting for confirmation from Fields in Trust as to whether this will be acceptable. Negotiations over any payment for release of the covenant are continuing. If notwithstanding that the land is being disposed at a nil value Fields in Trust state that they require a payment for the release of the covenant then any costs arising will be passed on to BDHT, and will not be borne by the Council.
- 3.6 In terms of the Council agreeing to dispose of the land for nil consideration, under section 123 of the Local Government Act 1972 Councils are (subject to certain conditions) entitled to dispose of land held by them in any manner they wish. In 2003 the requirement set out in section 123 to obtain the consent of the Secretary of State for disposals of land at less than the best value reasonably obtainable was removed (Reference Circular 06/03: Local Government Act 1972 general disposal of land for less than the best consideration that can reasonable be obtained). Councils are now able to proceed with disposals where the difference between the value of the interest to be disposed of and the consideration accepted is below two million pounds. As referred to at 3.2 above, enquiries have been made as to what the valuation of the land would be on the open market and officers are satisfied that the Council can proceed with the disposal under the provisions outlined above on the

basis that the consideration for the land if best obtainable value was paid for it would be less than two million pounds. There is a further requirement under section 123 that the proposed disposal of the land must be advertised by the Council; this is because it is currently used as open space land. This requirement can be complied with by way of publication of a notice in the local press.

- 3.7 In preparing this report the writer has consulted with the Senior Solicitor as to the legal implications.

**Service / Operational Implications**

- 3.8 The Homes and Communities Agency (HCA) is the national housing and regeneration delivery agency for England. The HCA's Affordable Homes Programme Framework sought offers from RP's (formerly known as RSLs, e.g. BDHT, West Mercia Housing etc) to work with the Homes and Communities Agency (HCA) to deliver a new supply of affordable housing over the next four years - 2011 to 2015.
- 3.9 The Localism Bill and the Government's consultation paper 'Local Decisions: A Fairer Future for Social Housing' (November 2010) proposed far reaching changes to the nature and length of tenancies offered by social landlords and, in the case of Registered Providers (RPs), to the rents charged to a proportion of their new tenants when properties become available for re-letting. The basis of this new delivery model is to encourage RPs to use the potential to increase the rental stream from some of their existing stock to help reduce the amount of public funding (HCA Grant) that will be needed to deliver the supply of affordable housing.
- 3.10 The HCA has therefore sought a competitive bid from RPs who use the new flexibilities on the use of existing assets to generate additional financial capacity to support new supply based upon four broad funding streams:
- Additional borrowing capacity by conversion of Social Rent units to Affordable Rent.
  - Cross subsidy through surpluses, outright sale, shared ownership sales, recycled grant and stock disposals.
  - Free or discounted land.

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- HCA Grant funding (but only where required to make a development viable).
- 3.11 In considering bids submitted by RPs nationally, the HCA has considered the strategic fit and overall value for money and evidence that RPs have worked closely with local authorities to develop schemes that deliver against local needs and priorities.
- 3.12 In April this year the Executive Cabinet considered and approved the basis of the bid submitted to the HCA by the Council's Principal Preferred Partners (BDHT and West Mercia Housing) to seek grant subsidy to develop up to 250 affordable dwellings in the Bromsgrove District over the next 4 years.
- 3.13 In accordance with DCLG / HCA guidance the bid submitted by BDHT/WM Housing to develop 200 dwellings included financial contributions from:
- Additional borrowing capacity by conversion of a proportion of Social Rent units to the new Affordable Rent.
  - Cross subsidy through surpluses, outright sale, shared ownership sales, recycled grant and stock disposals.
  - Free or discounted land.
  - The BDC approved capital grant budget for 2011/12 of £200,000.
- 3.14 **UPDATE UPON PROGRESS IN GAINING HCA FUNDING TOWARDS AFFORDABLE HOUSING DELIVERY 2011 – 2015.**
- 3.15 At the time of preparing this report (August 2011), the following information had been received from the HCA:
- Up to 80,000 new affordable homes are to be delivered nationally over the 4 year period from a £1.8bn investment. (Bids had been received amounting to 3.4bn).
  - The provisional allocation to the Midlands Region £286.5m equal to 17% of the national budget and will provide 13,500 homes.
  - The HCA has not yet been able to confirm allocations in each local authority area as allocations are subject to further contract negotiations with each of the Registered Providers across the Midlands to ensure the best possible outcome at a minimum geographic level to respond to local needs and Local Investment Plan (LIP) priorities.
  - Further news will not be announced before September 2011.

- 3.16 A verbal update will be made to the Cabinet at the meeting if further information is available from the HCA.
- 3.17 **COUNCIL ASSISTANCE AND SUPPORT TO PRINCIPAL PREFERRED PARTNERS IN THE DELIVERY OF AFFORDABLE HOUSING IN THE DISTRICT.**
- 3.18 The Council in its enabling capacity works closely with Registered Providers to support and assist the delivery of affordable housing to meet locally identified priorities. In doing so the Council has historically used its available resources to help fund affordable housing schemes through the contribution of local authority grant and the disposal of BDC land to RP's at below market value of for nil capital receipt.
- 3.19 Under the new delivery model arrangements it has become increasingly important for the Council to continue to support RP's in their bid to deliver affordable housing as the HCA expects development funding to be raised from a wide range of sources and sees a call upon HCA resources as a last resort.
- 3.20 When the Leader of the Council and the Chief Executive Officer met with senior officers of BDHT and WM Housing in March 2011 to discuss the basis of the proposed bid to the HCA, two potential sources of BDC assistance were identified and agreed in principle subject to approval of the Cabinet. The two sources of assistance identified are as follows:
- 3.21 **Disposal of land at Housman Close, Charford.**
- 3.22 Back in December 2006 the Executive Cabinet approved the disposal of land at Housman Close, Charford to BDHT for the development of affordable housing for older people. The land (Appendix 1) that is currently open space play facility falls within the boundary of the Charford Regeneration Scheme, an area that has since undergone extensive estate layout remodelling and refurbishment by BDHT.
- 3.23 The process of consultation and the development of draft plans had indicated the benefits of developing four or six additional units of affordable housing (bungalows) for older people on Council owned recreation land that is situated in close proximity to the OAP bungalows in Morris Walk. Feedback from residents and the Police indicated that the land in question was not suitable as a play area and not conducive to the

overall improvements targeted through the wider Austin Road regeneration scheme. Over the years there had been a history of complaints by local residents of annoyance and nuisance emanating from the site.

- 3.24 Therefore, in 2006, the Executive Cabinet resolved that approval be granted for the Housman Close Site to be transferred to BDHT at a figure below market value, to be negotiated by the officers in consultation and agreement with the Portfolio Holder for Strategic Housing.
- 3.25 Progress in disposing of the land has since been delayed due to prolonged negotiations with The National Playing Fields Association and Fields in Trust who hold the benefit of a Deed of Covenant over the site as explained in more detail at paragraphs 3.4 and 3.5 above. Whilst discussions are continuing, the negotiations do appear to now be progressing towards a satisfactory conclusion. Accordingly, BDHT have included the development of 6 bungalows on the site within their recent development bid to the HCA.
- 3.26 At the meeting held between senior officers of BDHT and WM Housing with senior officers and the Leader of the Council in March it was identified that the bid to the HCA would be enhanced if the Council agreed to convey the land to BDHT for a nil capital receipt to show the commitment of the Council to a joint commissioning approach to the delivery of affordable housing.
- 3.27 Members are therefore recommended to approve the recommendation that the land as shown on the plan at Appendix 1 of the report be conveyed to BDHT for a nil capital receipt.
- 3.28 **Ring fencing of the affordable housing additional payment under the New Homes Bonus for the grant aiding of additional affordable housing units by the RSL that provided the units that generated the income.**
- 3.29 The New Homes Bonus is designed to create an effective fiscal incentive to encourage local authorities to facilitate housing growth and aims to ensure the economic benefits of growth are more visible within the local area, by matching the council tax raised on increases in effective stock. Sitting alongside the existing planning system it is intended to help deliver the vision and objectives of the community for the area. The scheme provides local authorities with a New Homes Bonus, equal to the national

average for the council tax band on each additional property and paid for the following six years as an un-ring fenced grant.

- 3.30 There will be an **enhancement for affordable homes** delivered to ensure that affordable homes are sufficiently prioritised within supply. It will be a simple and transparent enhancement of a flat rate £350 per annum, for 6 years, for each additional affordable home. This is about 25 per cent of the current average Band D council tax or 36 per cent of the average Band A council tax, and will be reviewed if council tax rises.
- 3.31 At the meeting held between senior officers of BDHT and WM Housing with senior officers and the Leader of the Council in March it was identified that the £350 per dwelling Enhancement element of the New Homes Bonus payable as an additional amount on affordable housing units developed could be 'ring fenced' and used for grant support funding of future affordable housing schemes.
- 3.32 Members are therefore asked to consider the recommendation that, subject to budget process consideration, 'in principle' approval be given to the ring fencing of the 'enhancement for affordable homes' additional payment under the New Homes Bonus for use in the grant aiding of additional affordable housing units by the Registered Provider (RP) that provided the units that generated the income.

**Customer / Equalities and Diversity Implications**

- 3.33 The actions set out within the document are designed to enhance the Council's response to the identified housing needs of the community and to assist Registered Providers and the HCA to invest in affordable housing that accords with the needs and priorities identified.
- 3.34 It has not been considered necessary to carry out an impact assessment on the proposals.

**4. RISK MANAGEMENT**

- 4.1 The implications of not supporting the recommendations would be an increased risk of not being able to meet affordable housing delivery targets which in turn could impact upon the Council's ability to meet housing need and its duty to homeless people and the ability to avoid the potential use of B&B.

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**5. APPENDICES**

5.1 Appendix 1 – Plan of the Housman Close Site.

**6. BACKGROUND PAPERS**

6.1 New Homes Bonus – Final Scheme Design - CLG

**7. KEY AUTHOR OF REPORT**

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