

<b>Report of:</b>	<b>Head of Housing and Waste Management</b>
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<b>Key Decision:</b>	<b>No</b>
<b>Report Track:</b>	<b>Cabinet: 24/03/16</b>

**CABINET**  
**24 MARCH 2016**  
**AFFORDABLE HOUSING DELIVERY**

**1 Purpose of Report**

- 1.1 To outline the delivery mechanisms that currently secure the delivery of affordable housing.
- 1.2 To obtain approval to accept homes for affordable rent on development sites that are subject to a S106 agreement for affordable housing.

**2 Recommendations**

That:

- 2.1 Cabinet allows the development of homes for affordable rent (that do not exceed the relevant Local Housing Allowance) on sites that are subject to a S106 agreement for affordable housing.
- 2.2 Cabinet receive a further report when the Housing and Planning Bill has passed through Parliament.
- 2.3 Cabinet notes the current delivery mechanisms that secure the delivery of affordable housing.

**3 Key Issues and Reasons for Recommendation**

- 3.1 The Developer Contributions and Housing Choices Supplementary Planning Document (SPD) was adopted in June 2015 and was consulted on widely following a high level review of development viability undertaken by Adams Integra in July 2012, which was subsequently updated in July 2014.
- 3.2 The report identified seven key recommendations to inform future affordable housing policy that will were widely consulted on to develop the SPD for Affordable Housing:

- On S106 sites the affordable housing target should be to seek 20% on sites of 15 or more dwellings.
- It is considered appropriate to lower the affordable housing policy threshold and for sites of between 1 and 14 units (inclusive), a financial contribution should be sought and these monies used to fund affordable housing provision elsewhere in the District in partnership with Registered Providers.
- The starting point for negotiation on S106 sites will generally be an expectation of 80% social rent and 20% intermediate tenure.
- Policy should be clearly worded so as to set out genuine targets with the approach acknowledging the role of viability and application of flexibility where required.
- Where a developer considers a site has particular viability issues the developer should put forward a case which will then be subject to independent assessment (the cost of any assessment to be funded by the developer).
- Adams Integra assumed that the majority of schemes in the District should be able to absorb a Community Infrastructure Levy (CIL) rate of £40 per m2 and deliver 20% affordable housing.

3.3 As the viability evidence stated that social rent was a viable option on S106 sites the Council has continued to request this tenure. Officers don't have the authority to accept affordable rent as an option even if viability evidence supports the applicants argument that the site is unviable with social rent or if Registered Providers are unwilling to deliver this product.

3.4 Although to date there has only been one request to vary a S106 agreement from provision of social rent to affordable rent there are likely to be more requests in the future. Registered Providers are also facing a 1% rent reduction following the Budget 2015 announcement and reviewing their business plans which may result in them becoming increasingly hesitant to deliver social rent.

3.5 If affordable rent does not become an accepted tenure on S106 sites there is a possibility that sites could stall as social rent becomes increasingly difficult for Registered Providers to deliver.

3.6 In November 2015 Brandon Lewis MP, the Minister of State for Housing and Planning wrote to Local Authority Leaders and Chief Planning Officers (as attached as Appendix 1) concerning the delivery of affordable housing. He urges local planning authorities to respond constructively and positively to requests for renegotiations on S106 sites and to take a pragmatic and proportionate approach to viability. The letter also states that:

'Where it is simply proposed that the tenure mix is adjusted, with the overall affordable housing contribution remaining the same, it is our view that this is unlikely to justify reopening viability by either side'.

3.7 Affordable rent units are already being delivered in the District on sites where all of the units are affordable and the site is therefore not subject to a S106

agreement. To date approximately 35 units have been delivered (excluding supported accommodation).

- 3.8 The table below shows the average rents in the District for both social and affordable rent and the Local Housing Allowance.

Property Bed Size	Council Rent per week (District average)	Registered Provider social rent per week (District wide average from HCA data)	Registered Provider affordable rent per week (District wide average from HCA data)	Local Housing Allowance (per week)
1	68.24	74.31	No figures available *	90.90
2	77.43	93.33	100.35	113.92
3	81.40	101.17	111.36	129.47
4	88.15	108.57	No figures available *	170.67

*\* There are no figures available from the Homes and Communities Agency for 1 beds and 4 beds as no properties of that type have been converted to affordable rent or built in the District for affordable rent to date.*

- 3.9 It is proposed that Officers can agree affordable rent units on S106 sites without the need for a viability assessment but with the commitment from the Registered Provider that the rent to be charged does not exceed the relevant Local Housing Allowance rate (excluding supported housing), applicable for the property at the time of rent setting.
- 3.10 Consideration should also be given by Registered Providers to setting rent levels at below 80 per cent of market rent to take into account local circumstances.

#### **4 Relationship to Corporate Priorities**

- 4.1 The service aim to increase the supply of affordable housing forms part of the 'More and Better Housing' Priority Delivery Plan 2015-16.

#### **5 Report Detail**

- 5.1 The Government's definition of affordable housing as set out in national planning policy includes:
- **Social Rented Housing** – Rented housing owned by local authorities and private registered providers, for which guideline target rents are determined through the national rent regime.
  - **Affordable Rented Housing** – Rented housing let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).
  - **Intermediate Housing** – Houses at prices and rents above those of social rent, but below market price or rents. These can include shared

ownership products, other low cost homes for sale and intermediate rent but do not include affordable rented housing.

- 5.2 The Homes and Communities Agency (HCA) 2011-15 Affordable Homes Framework stated that 'affordable rent is expected to be the main element of the product offer from providers both for new supply and conversion of re-lets'.
- 5.3 The following affordable housing delivery mechanisms secure the delivery of affordable housing in the District:
- **Affordable Homes Programme** – The HCA administer the Affordable Homes Programme. Registered Providers and local authorities use their allocated funds to put social housing grant into schemes which assists affordable housing delivery in the District.
  - **Council Housing** – 65 new Council houses will form part of the redevelopment of the Moss Road Estate in Chadsmoor. 25 new Council houses will also be built on a number of former Council garage sites. The Council has received confirmation of grant from the HCA to assist with the development of these schemes.
  - **Land Opportunities** – The Council has discounted land to enable Registered Providers to develop affordable housing schemes including land following the demolition of two former sheltered schemes. Land is also brought forward by Registered Providers or other public bodies that wish sites to deliver 100% affordable housing.
  - **S106 agreements** – A S106 agreement ensures that developers contribute to the provision of affordable housing in the District. 20% affordable housing is currently requested on all sites of 15 or more units.
  - **Financial contribution** – a financial contribution towards affordable housing is required on sites of 1 to 14 units. The payment is based on a formula contained with the Economic Viability Assessment of Future Development of Affordable Housing in Cannock Chase (2014, Adams Integra).
- 5.4 The Government's current drive is for home ownership, with a particular focus on the provision of starter homes to be sold at a discount of at least 20% of market value and at less than a price cap of £250,000. More detail will emerge as the Housing and Planning Bill passes through Parliament and subsequent legislation but the Government are proposing to amend the definition of affordable housing to include low cost homes and to require a proportion of starter homes to be delivered on all suitable reasonably sized housing developments.
- 5.5 Details of the Homes and Communities Agency 2016-21 Affordable Homes Programme have yet to be announced but it's possible that the majority of grant available will be directed towards the provision of starter homes or home ownership products with a small amount remaining for rented housing. If this is the case, any type of rented product will be difficult to deliver despite the District having a high need for this type of tenure.

- 5.6 To continue to only accept social rented units on sites could therefore potentially stifle any rented homes being delivered on S106 sites at all.

<b>6 Implications</b>
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**6.1 Financial**

There are no direct financial implications arising from this report.

**6.2 Legal**

None.

**6.3 Human Resources**

None.

**6.4 Section 17 (Crime Prevention)**

None.

**6.5 Human Rights Act**

None.

**6.6 Data Protection**

None.

**6.7 Risk Management**

It should be recognised that if the recommendation to deliver affordable rent on S106 sites is not implemented the number of affordable homes delivered will be lower than could otherwise have been achieved.

**6.8 Equality & Diversity**

Any equality and diversity implications were assessed as part of the equalities impact assessment for the adoption of the Local Plan.

**6.9 Best Value**

Increasing the type of affordable housing that can be delivered on S106 sites in the District will assist more households to access homes suited to their needs and therefore create sustainable, mixed communities.

**7 Appendices to the Report**

Appendix 1 Impact of social rent changes on the delivery of affordable housing -  
Letter from Brandon Lewis MP

**Previous Consideration**

Cannock Chase Developer Contribution and Housing Choices Supplementary Planning Document	Cabinet	25 June 2015
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**Background Papers**

Economic Viability Assessment of Future Development in Cannock Chase 2012 –  
(updated July 2014)

Developer Contributions and Housing Choices Supplementary Planning Document –  
July 2015

## Appendix 1



Department for  
Communities and  
Local Government

Local Authority Leaders  
Chief Planning Officers  
Local Authorities in England

**Brandon Lewis MP**  
*Minister of State for Housing and Planning*

**Department for Communities and Local  
Government**  
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9<sup>th</sup> November 2015

### Impact of social rent changes on the delivery of affordable housing

As part of its ambitions to continue to significantly boost housing supply and increase home ownership, the Government is committed to delivering 275,000 extra affordable homes by 2020. Over £1 billion from the existing Affordable Housing Programme has already been allocated to deliver such schemes.

Following feedback by key partners it is clear that housing associations are reviewing their existing financial commitments following the Budget 2015 announcement of reductions in social rents in the four years from 2016-17. As a result some approved or emerging schemes where housing associations are engaged with house builders through Section 106 agreements are not being built out at the anticipated rate. Delay risks planned homes not coming forward and the ability of councils being able to demonstrate a five-year supply of deliverable housing land.

Section 106 agreements may of course be renegotiated at any time by mutual consent. Developers have already or will be approaching councils to renegotiate Section 106 Agreements to make adjustments to planned schemes, including the type of affordable housing provided. Planning guidance is clear that local planning authorities should be flexible in their requirements, taking into account specific site circumstances and changing circumstances.

Developers are already entitled to apply to modify any obligation over five years old. They are also able to apply to revise the affordable housing element of any Section 106 planning obligation if they can evidence that the affordable housing element is making the scheme unviable and is stalling development.

We would urge planning authorities to respond constructively, rapidly and positively to requests for such renegotiations and to take a pragmatic and proportionate approach to viability. Where it is simply proposed that the tenure mix is adjusted, with the overall affordable housing contribution remaining the same, it is our view that this is unlikely to justify reopening viability by either side. We would ask local authorities to expedite such renegotiations so they can be dealt with in a timely manner, and avoid action which might result in unnecessary delay. For example, it would probably not be necessary in all circumstances to take a revised obligation back to planning committee for approval.

Should there be a need to reduce the overall amount of affordable housing, we strongly encourage local authorities to seek the minimum amount of viability information necessary, for example only that information which compares the financial position immediately prior to the Budget to the current position to justify the requested change.

The Government attaches great importance to the effective and flexible negotiation of Section 106 planning obligations, including on affordable housing, and intends to introduce a dispute resolution mechanism to help speed up Section 106 negotiations. We would also encourage flexible arrangements in the original agreement (for example through cascade mechanisms) so that it allows the delivery of alternative forms of affordable housing if this becomes necessary, and will produce guidance on this shortly.

We will be contacting local authorities over the next few weeks to understand the extent to which they are being approached to renegotiate Section 106 Agreements, and what action authorities are taking.

A handwritten signature in black ink, appearing to read 'Brandon Lewis', with a long horizontal flourish extending to the right.

**BRANDON LEWIS MP**