

## **The Vale of Glamorgan Council**

### **Cabinet Meeting: 5 September, 2016**

### **Report of the Cabinet Member for Regeneration and Education**

### **Planning Obligations on 100% Affordable Housing Developments of 25 Units or Less**

#### **Purpose of the Report**

1. To request that Cabinet considers the introduction of a policy to apply nil financial planning obligations on 100% affordable housing developments of twenty-five units or less delivered either by the Council or its four Housing Association partners.

#### **Recommendations**

1. That Cabinet agree to waive the requirement to seek financial obligations through Section 106 of the Planning Act on 100% affordable housing sites of twenty-five units or less developed in the Vale of Glamorgan by the Council or the four housing associations zoned by Welsh Government to develop in the County; Hafod Housing, Newydd Housing, United Welsh Housing and Wales & West Housing.
2. That subject to approval of Recommendation 1, the draft Planning Obligations and Affordable Housing SPG approved by Cabinet on 14th December 2015 (Minute No. C3022), be amended to include this exception.

#### **Reasons for the Recommendations**

1. In order to maximise the use of Council funding and Social Housing Grant or other such subsidy made available by Welsh Government for the development of affordable housing, in advance of the introduction of the Community Infrastructure Levy (CIL).
2. To ensure the SPG are up-to-date and reflect Cabinet's resolution.

#### **Background**

2. Local authorities have an important strategic housing role and statutory responsibilities in relation to the functioning of the housing market. Section 8 of the Housing Act 1985 requires local authorities to consider the housing conditions and needs in their local area; this includes a duty for local authorities to conduct a periodic review of the housing market. This review provides the Council with a

comprehensive understanding of the local housing market and a robust evidence base for effective strategic housing and planning services.

3. In addition to the above piece of legislation, Planning Policy Wales, which sets out the land use planning policies of the Welsh Government, emphasises that local authorities should understand the whole housing system so that they can develop evidence-based market and affordable housing policies in local housing strategies and development plans.
4. Planning Policy Wales is supplemented by a series of Technical Advice Notes; Technical Advice Note (TAN) 2 provides guidance on the role of the planning system in delivering affordable housing. TAN 2 also requires all Welsh local authorities to undertake a Local Housing Market Assessment (LHMA). This builds upon the requirement for local authorities to review and understand their housing market by taking a holistic view of the housing market across all tenures.
5. The Council's up to date LHMA 2015 was agreed by Cabinet on 16th November 2015 (Cabinet Minute C2980) and showed an annual requirement of 559 affordable units in the Vale of Glamorgan during the five year period of the assessment; 2015-2020 (2,795 over the period).
6. The net need for 559 affordable housing units per year comprises 331 units of social rented and 228 units of intermediate housing.

### **Relevant Issues and Options**

7. The Local Planning Authority (LPA) has commenced work on preparing a Community Infrastructure Levy (CIL), which will act as a mechanism for charging developers a set levy to provide infrastructure (such as roads, schools, open spaces etc.) in the local authority area dependent on the type and size of development proposed, and its location within the Vale of Glamorgan. Once CIL is adopted in the Vale of Glamorgan, social housing will be eligible for relief from the CIL levy, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended), which came into force on 6th April 2010.
8. In light of this, it is recommended that it is agreed to waive the requirement to impose any planning obligations on 100% affordable housing sites of twenty five dwellings or less, developed in the Vale of Glamorgan by the Council or the four housing association partners zoned by Welsh Government in the County, in order to maximise the use of Council funding and any subsidy in advance of CIL being adopted. The threshold for 25 residential units or less will be in alignment with the current residential development maximum threshold for community facilities provision through planning obligations, as set out in the draft Supplementary Planning Guidance (SPG) 2015 approved by Cabinet on 14th December 2015 (Cabinet Minute C3022). This SPG is currently a material consideration in development management decisions.
9. However, as will be the case when CIL is adopted, there may still be site specific impact mitigation requirements, without which a development should not be granted planning permission. Some of these needs may be provided for through planning obligations, particularly if they are very local in their impact. It should be emphasised that if Members endorse this recommendation, it is not a blanket approach, and this would not apply to any development that was deemed to be contrary to planning policy in the absence of appropriate mitigation, for example with regard to highway safety. Therefore, where it is considered necessary and essential, the LPA will still

require appropriate mitigation, particularly for developments in sensitive and rural areas. In these circumstances, the LPA will then only request planning obligations when the developments meet the following tests, in accordance with the CIL regulations:

- necessary to make the development acceptable in planning terms
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development
10. The Council has the power to enter into legal agreements with developers under Section 106 of the Town and Country Planning Act 1990 (S106) to seek these contributions from developers to mitigate the negative development impacts and to facilitate developments which might otherwise not occur. Please see link to last Cabinet Report 21st September 2015 on the matter [http://www.valeofglamorgan.gov.uk/en/our\\_council/council/minutes\\_agendas\\_and\\_reports/reports/cabinet/2015/15-09-21/Annual-Report-Section-106-Legal-Agreements-2014-2015.aspx](http://www.valeofglamorgan.gov.uk/en/our_council/council/minutes_agendas_and_reports/reports/cabinet/2015/15-09-21/Annual-Report-Section-106-Legal-Agreements-2014-2015.aspx).
  11. At present, the Council as the Local Planning Authority applies its draft Planning Obligations SPG (2015) in the first instance to most developments of this kind. If this impeded the viability of the development, such matters would be negotiated on a site by site basis having regard to the strong presumption in favour of affordable housing arising from the Council's evidence on housing need.
  12. Whilst there are several examples of planning permission being granted with zero or reduced S106 obligations on this basis, as it stands this does not provide the degree of certainty to the Council's Housing Service and partner housing associations that is required. A list of the size and type of obligations received since 2010 can be found at [Appendix 1](#).
  13. In the majority of 100% affordable housing developments, financial contributions are usually sought for sustainable transport, education, public open space, community facilities and public art. Welsh Government provides subsidy such as Social Housing Grant to housing associations at the rate of 58% of the overall cost of delivering new affordable housing, leaving the organisations to raise 42% of the cost through private finance. This means that any planning obligations levied against a site have to also be financed in this way, which can make a marginal site unviable, as 58% of the cost will have to be covered by the subsidy, thus reducing the amount of funding available for the build costs and the number of affordable housing units that can be delivered each year in the Vale. In addition, for any council housing developed through the Housing Business Plan, 100% of the cost of the planning obligations would have to be covered from this source. This recommendation does not seek to waive any necessary 'in kind' contributions necessary to make a development acceptable in planning terms.
  14. The Vale of Glamorgan has a very low Social Housing Grant allocation each year to allocate to the RSLs to deliver affordable housing (3.1% of the overall Welsh budget). In addition, following the changes to the Housing Revenue Account System introduced in April 2015, the Council is embarking on a new council house building programme, whilst still being required to fund the improvements to bring its existing stock up to the Welsh Housing Quality Standard. It is also seeking to fund environmental improvements on existing estates.
  15. The Council's house building programme will focus on delivering as many highly adapted homes as possible to meet the specific needs of households on the

Accessible Homes Register. It will therefore be important to ensure that the maximum funding available through the Housing Business Plan is directed at the delivery and build costs of the social rented homes, without which families in housing need and communities are unable to thrive.

16. In respect of the four partner housing associations zoned to develop in the Vale of Glamorgan by Welsh Government, these are registered social landlords (RSLs) as defined in Part 1 of the Housing Act 1996, who are registered with the Welsh Government pursuant to Section 3 of that Act. As part of the statutory requirements for being an RSL, they are required to be not for profit organisations and Welsh Government have in place a robust regulatory framework under which they are reviewed and governed.
17. The housing associations also deliver many community benefits in addition to the delivery of affordable housing, as well as training and work opportunities for local people. In addition, by developing affordable housing in rural communities for local people who are unable to afford to rent or buy a property in the area they are assisting them to remain within their support networks and bring social and economic benefits to the area. This in turn is helping to create sustainable communities, including supporting the village schools and businesses.
18. The Council's Housing Service in its enabling role determines which affordable housing sites meet the Council's strategic priorities and which should be supported by subsidy from Welsh Government.
19. It is therefore requested that Cabinet give approval that where 100% affordable housing is being delivered on a site of less than twenty five units by the Council or one of the four registered social landlords zoned by the Welsh Government to develop in the Vale of Glamorgan, that no additional financial obligations will be required through S106 Legal Agreements.

### **Conclusion**

20. This approval will ensure that small specialist developments of social rented properties can be developed in the Vale of Glamorgan and all funding directed towards the delivery and build cost. This will maximise the number of new affordable housing units available for people in the Vale of Glamorgan where there is a critical housing need, without preventing the LPA from being able to impose any planning restrictions on a site.
21. This approach is consistent with the Department of Communities and Local Government's (DCLG) approach to affordable housing and CIL contributions i.e. that social housing will be eligible for relief from CIL once it is adopted in accordance with the CIL regulations.

### **Resource Implications (Financial and Employment)**

22. If Cabinet endorse this recommendation, the lack of S106 financial contributions for matters such as sustainable transport, public open space, community facilities and education could lead to pressure from future residents for those service areas to meet their needs through their own budgets as service providers. However, there is a critical need in the Vale of Glamorgan for affordable housing and previous research has shown that if a person does not live in a stable and good quality home, it can have a detrimental impact on both their health and educational attainment. Therefore this is a Policy decision to prioritise affordable housing over other service areas.

23. The high level of need for additional affordable homes is borne out by the findings of the LHMA and over 3,000 households awaiting appropriate housing through the Council's Homes4U Lettings Scheme.

### **Sustainability and Climate Change Implications**

24. All new 100% affordable housing developments must meet the requirements of either the Development Quality Requirements (DQR) or the Welsh Housing Quality Standard (WHQS), both of which assist in minimising the impact of climate change. In addition, the proposal will help the long term sustainability of the Vale of Glamorgan by providing more good quality, environmentally sustainable homes that meet the needs and aspirations of tenants and residents.

### **Legal Implications (to Include Human Rights Implications)**

25. The planning obligations and Community Infrastructure Levy systems are covered by Section 106 of the Town and Country Planning Act 1990 (as amended), The Community Infrastructure Levy Regulations 2010 (as amended) and the Localism Act 2011.

### **Crime and Disorder Implications**

26. The development of good quality additional affordable housing will have a positive benefit on the reduction of crime and disorder by providing those in housing need with the safety and security of having their own good quality home built to 'Secure by Design' standards.

### **Equal Opportunities Implications (to include Welsh Language issues)**

27. The development of affordable homes is supportive of the Council's Equal Opportunities ethos. Examples of this include providing a safe and suitable environment for those in housing need by increasing access to good quality housing which will be built to the latest building regulations standards.

### **Corporate/Service Objectives**

28. This report is consistent with the Corporate Plan 2016 - 20 Well-being Outcome 1: An inclusive and safe Vale. Objective 2: Providing decent homes and safe communities:  
Work with partners to instigate a new council house building programme.  
Provide appropriate accommodation and support services for particularly vulnerable groups.  
Increase the number of sustainable, affordable homes.
29. This report is also consistent with the Council's Local Housing Strategy 2015-20 which aims to ensure that 'Vale of Glamorgan residents have access to affordable, good quality suitable housing and housing advice and support'.

### **Policy Framework and Budget**

30. This is a matter for Executive decision.

## **Consultation (including Ward Member Consultation)**

31. This report will affect those in housing need throughout the Vale of Glamorgan and therefore no individual ward member consultation has been undertaken.

## **Relevant Scrutiny Committee**

32. Environment and Regeneration.

## **Background Papers**

Vale of Glamorgan Draft Planning Obligations SPG, Supplementary Planning Guidance, November 2015

Local Housing Strategy 2015-2020

Local Housing Market Assessment 2015

The Community Infrastructure Levy Regulations (as amended) 2010

Planning Act 2008

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