

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL****CABINET****23<sup>RD</sup> JULY, 2015****STRATEGY FOR ENABLING LOCAL HOUSING DEVELOPMENT****REPORT OF THE DIRECTOR, CORPORATE ESTATES****1. PURPOSE OF REPORT**

To set out a policy for bringing forward parcels of land to facilitate local housing development.

**2. RECOMMENDATIONS**

- 2.1 Members note the content of this report and approve the report as policy
- 2.2 The procedure set out at section 6 is adopted as the method for bringing forward land under this policy.

**3. BACKGROUND**

- 3.1 Some communities in Rhondda Cynon Taf face multiple deprivation, characterised by poor health, poor housing, lack of employment opportunities, community safety concerns, poor access to services and low incomes. Where communities are facing multiple problems, investment in housing can act as a catalyst for other regeneration activity in an area. Construction and house building is widely recognised as a labour-intensive activity, with a large proportion of labour originating from the local area surrounding the development. The delivery of the Welsh Housing Quality Standard and strategic housing energy efficiency projects in the borough are two examples of how communities can be transformed by investing in homes.
- 3.2 There is however a mismatch between housing stock and housing need/demand in many areas. Some localities do not have the appropriate size of accommodation to meet the community's needs and other areas have limited choice in terms of the property types available. The valley areas in particular are dominated by traditional terraced properties, which can present challenges in terms of maintenance, adaptation and suitability; thereby rendering it difficult for many of these homes to last a household's lifetime.

- 3.3 This housing market mismatch has led to issues with empty homes in many localities whilst simultaneously leaving some high need areas without adequate housing provision. However, by intervening in and influencing the housing market, the Council can enable a range of housing options to come forward to meet a range of local needs. The existing work being carried out to bring empty properties back into use is helping to make better use of existing housing stock to regenerate areas, alongside other targeted work such as the Health and Housing Action Area in Tylorstown.
- 3.4 However, there is also a continued need to build new homes to increase supply in an integrated manner. Indeed, construction of new homes can help reverse economic, social, environmental and physical decline in areas where market forces will not do this alone. The Council does own a significant property portfolio, including parcels of undeveloped land, which can be used to enable delivery of the appropriate type and size of accommodation through a range of innovative means.
- 3.5 Whilst many of these sites (especially in more deprived areas) may not be brought forward under conventional market mechanisms, certain delivery models as described in Appendix 1 have been used successfully in other localities. In the context of reducing budgets, it is imperative that housing investment is prioritised in areas where it is needed most; complemented with other external sources of funding where possible to ensure maximum impact in our communities.

## **4. REPORT**

### **4.1 Best Consideration for Disposal of Property Assets**

- 4.1.1 Under the Local Government Act 1972, all Local Authorities have a duty to obtain best consideration when disposing of property assets. This is the full market value of the asset.
- 4.1.2 Maximising the payment for asset sales enables capital to be released to reinvestment in the Council's capital programme.

### **4.2 Disposal at less than Best Consideration**

- 4.2.1 There is a process under which the consent of Welsh Government can be obtained to dispose of assets at less than best consideration. Since July 2003 the process has been somewhat simplified and a general consent is available.
- 4.2.2 Under these provisions a local authority may dispose of any land held under the Local Government Act 1972, for less than best consideration, which it considers will contribute to the promotion or improvement of the economic, social or environmental wellbeing of its area. The limit of the under value may not exceed £2M.
- 4.2.3 To fulfil the Council's fiduciary duty in an accountable way, a clear audit trail of the decision making process is required. In addition, the specific undervalue must be

stated, supported by appropriate valuation advice. It is good practice to notify the Council's external auditor in advance of the transaction.

- 4.2.4 Land held other than under the LGA1972 is outside the terms of reference of the General Consent of 2003. Similarly its provisions would not apply to land held by the Council as Trustees.

### **4.3 State Aid Rules**

- 4.3.1 State Aid involves the grant of aid through state resources which distorts or threatens to distort competition by favouring certain undertakings or the productions of goods with an effect on trade between member states. Sales of land by public authorities will not amount to State Aid if they are well publicised, open and unconditional accepting market value.

- 4.3.2 If there is no open competition the market price is the minimum purchase price that can be agreed without potentially granting state aid. Article 109 provides for the European Council to make regulations ( known as block exemptions ) exempting certain types of aid from the general prohibition, allowing member states to grant those types of aid as long as they provide the Commission with information. There are two block exemptions:

1) the de minimis Regulation dealing with relatively small values of aid – aid can be granted provided it does not exceed the maximum limit which is currently set at 200,000 Euros granted over three years to a single undertaking

2) certain types of aid are exempt under the General Block Exemption Regulation ( GBER) and whether a project is exempt will depend upon the type of project , the form of aid and any conditions regarding the granting of the aid

- 4.3.3 If there is a possibility of state aid being granted early advice must be sought from specialist advisers.

### **4.4 Open Spaces**

- 4.4. 1 If any part of the land comprises open space the Council must advertise the proposed sale in the local press for two consecutive weeks and give consideration to any objections that may be received before proceeding with the proposed disposal

### **4.5 Land Review and Disposal Programme**

- 4.5.1 In order to ensure assets are being utilised effectively, the Council has in place a programme of reviewing its property assets. This operates around specific groups of premises (eg office accommodation review) as well as parcels of land.
- 4.5.2 This programme has enabled the Council to bring underutilised property assets back into use, generate significant capital receipts (£2.2M in 2013/14, £4.2M in 2014/15 and projecting around £4M in 2015/16) and realise significant ongoing revenue savings.

- 4.5.3 Any reduction in receipts generated from disposal of assets would need to be reflected in the Capital Strategy.

#### **4.6 Release of Land for Local Housing Schemes**

- 4.6.1 In order to ascertain a way forward, and for purposes of manageability, part of the Rhondda was chosen to pilot the principle and determine if there were indeed any deliverable sites in one of the most deprived parts of the County Borough. The Rhondda was also selected as this is consistent with the area based approach being taken forward by the Local Service Board (LSB). A team of six officers was established, including representatives from Corporate Estates, Planning and Housing Strategy to undertake a review of Council owned sites in the Rhondda. The review was very candid with all possible opportunities, barriers, strengths and weaknesses duly considered in respect of sites throughout the review area. The ultimate aim was to identify potential parcels of land that could be developed for residential purposes.
- 4.6.2 The initial scoping review identified 44 sites, including 4 that had been previously been sold to the private sector. In total, 23 of these sites were deemed to have no potential for residential development for numerous reasons such as gradient, existing use (i.e. sports pitches and playgrounds), water course/flood issues and planning designation (i.e. green wedge, special landscape area). However, 17 of these sites were deemed to warrant further review. A subsequent meeting was therefore held to further discuss their merits in detail by analysing any leases, public rights of way, planning constraints, market demand, gradient and access issues. This more detailed analysis resulted in 8 sites being identified as having by far the most potential in the whole of the study area, although, undoubtedly, some do show more potential than others. An overview of each site has been produced for further consideration, including an OS Map, an aerial image, a photograph, the planning history, local house prices and a SWOT (Strengths, Weaknesses, Opportunities, Threats) analysis.
- 4.6.3 The potential sites identified are not necessarily straightforward to develop. Some have physical issues to be resolved such as access problems. Others may require investment in infrastructure or similar enabling work. To increase the potential of some sites it may be helpful to obtain an outline planning permission and/or design a master plan before bringing these forward. All of these activities would require speculative investment by the Council. No budget exists currently for such investment and therefore a new funding stream would be required if the potential of such sites are to be realised.
- 4.6.4 Nevertheless, Land Registry records reveal a distinct lack of significant new build housing in the Rhondda for over a decade. A combination of low land values and residential sale prices is undoubtedly the main reason behind this phenomenon and intervention by the Council could help reverse this market trend. There is local demand for new housing in these areas and construction of a different range of unit types to those currently available would help to diversify the local housing market and could act as a catalyst for wider regeneration.

## 5 CONCLUSIONS

- 5.1 The provision of land for local housing development could play a role in rectifying market weaknesses. Such development also would assist in delivering new housing provision and assist local economy by stimulating economic activity.
- 5.2 The procedure to be adopted in identifying and bringing forward land within this initiative is set out below at section 6.

## 6. PROCESS FOR MAKING LAND AVAILABLE TO ENABLE LOCAL HOUSING DEVELOPMENT

A small portfolio of assets is identified for this programme. Assets to be included are selected by the Director of Corporate Estates, in consultation with the Head of Housing and Director of Regeneration.

Assets are firstly offered to the market for sale, in the most appropriate manner.

Any site not sold will be reviewed to determine the strategy required and what preparation work may be appropriate. The review would be undertaken by Housing and Regeneration officers. Costs associated with any enabling work would be funded by new funding identified.

Valuation advice on the extent of any undervalue is obtained from the District Valuer, funded as above.

Social, economic and environmental benefits of the scheme are identified and qualified by Housing and Regeneration officers.

The opportunity is brought forward and advertised by Housing Officers.

Terms for the transfer of land are negotiated by officers from Corporate Estates, who will instruct legal officers to prepare necessary documentation.



## Appendix 1: Options for Innovative Delivery Models for Housing on Council Land

The Council has a number of sites suitable for residential development. There are numerous models and opportunities to release some of this land to allow housing or regeneration projects to progress. This paper provides an overview of several different models and best practice to identify transferable notions for Rhondda Cynon Taf to consider in this respect.

### 'Gifting' Council Land

A number of Councils have opted to 'gift' land to community land trusts or housing associations on the basis of delivering affordable housing and/or highly sustainable dwellings.

#### Example 1: Bristol City Council

Bristol City Council approved the sale of a derelict old school site to Bristol Community Land Trust for £1 in 2014; forgoing a potential capital receipt of £286,000 and paving the way to the creation of up to a dozen affordable homes. It was parcelled with some land from a depot to the rear of the site, to facilitate a mixture of social rent and low cost home ownership units.

A Community Land Trust is a not-for-profit, community-based organisation that develops housing or other assets at permanently affordable levels for long-term community benefit. As this is a new organisation, the Council approved a grant of £200,000, provided support via a Development Officer and agreed to underwrite £100,000 to Charity Bank in the event of unforeseeable cost over-runs. The Council had a longstanding pledge to support Bristol Community Land Trust and to sell land to the organisation at £1 to enable its growth. However, once it has its' first housing scheme "on the ground", the Council feels it can become increasingly self-sustaining and garner more interest. The main drivers for this disposal mechanism in lieu of maximising the capital receipt were:

- Promoting new ways of providing affordable housing, including custom build
- Reducing the housing waiting list through the development of affordable housing
- Enabling the re-provision of local facilities e.g. car parking and toilet facilities

NVQ accreditations

Re-generating a site that has been deteriorating over a number of years since closure with large annual maintenance costs

### Example 2: Leicester City Council

In April 2014, Leicester City Council agreed to sell a 13-acre former allotment site off for a nominal for £1 so low-cost eco-homes can be built. The land has been transferred to Saffron Lane Neighbourhood Council (SLNC); a charity set up for the benefit of people on the estate, and will be developed to provide 50 affordable eco-homes to Passivhaus standard. The construction will be completed by Westleigh Developments and then owned and managed by Emh Homes (an established housing association). This is a £7m scheme, supported by £1.5 million from the Homes and Communities Agency (the equivalent funding in Wales is Social Housing Grant) to facilitate the largest Passivhaus scheme in the country.

### Key Themes for Rhondda Cynon Taf to Consider

Both examples illustrate how land has been sold for a nominal fee to enable development of high quality affordable housing. Bristol City Council relied on a newly formed Community Land Trust to deliver these units; opting to support the Trust both financially and via a Development Officer on the basis that it would become self sustaining in the future. Leicester City Council took a different approach; transferring the land to a local charity to ultimately be developed and managed by an established housing association partner.

The former option has higher initial set up costs and Rhondda Cynon Taf already has five established developing RSLs, so it may prove more expedient to pursue the latter for example. Whilst there is housing need to justify creation of new social rented schemes across much of Rhondda Cynon Taf, there are several areas where there is already overprovision of this tenure, so alternative options need to be explored.

Indeed, some housing associations already have sites 'land banked' in lower need areas (for example, Newydd Housing Association owns a site in Penywaun, where there is no identified need for new social housing at present). Gifting land in such areas for development of more social housing would therefore not be a priority, although it could be for market housing. For instance, one proposal could be for Newydd to gift this land to a



private developer for house building on the basis of receiving a Council site for a nominal fee in an area of housing need.

Another alternative is for the Council to stimulate more market diversity on certain sites. In many areas, there is a large percentage of private rented accommodation and a need to diversify tenure (including providing means for newly forming households to step onto the first rung of the home ownership ladder). This could be facilitated by gifting land to private developers on the basis that a proportion of the units would be made available for low cost home ownership, secured by a second charge on the deeds in favour of the Council.

### **Delayed Capital Receipt**

If gifting land is not an option, there are alternative models that can be utilised, especially in the event that any potential developer has limited capital upfront. For example, assume a developer was unable to raise the full capital to purchase a site from the Council. That developer could put forward a proposal to pay a capital sum upfront for a proportion of the land (for instance, 60%) and then commence development. The part of the site already 'paid for' would be used to develop market housing for sale. The developer could then develop the remainder of the land with houses for low cost home ownership (available at 60-70% of market value to first time buyers, where the Council retains a 30-40% charge on the deeds). This product meets the TAN 2 definition of 'Affordable Housing'. The developer would then not be required to pay the remainder of the capital receipt (i.e. the 40%) for the land until the low cost home ownership units were sold, thereby assisting with cash flow. Essentially, the Council would be providing an interest free loan on a proportion of the land to enable affordable housing to come forward.

Given the previous examples; this could prove to be one means of bringing sites forward in the north and fostering a greater mix of home ownership tenures amongst large rental markets (both private rent and social rent). The Council would need to be willing to accept a deferred payment for part of the site (likely to be in the region of 2-3 years).

### **Develop a Partnering Scheme i.e. Cardiff Partnering Scheme**

The principles of the Cardiff Partnering Scheme were approved by Cabinet on 11 November 2000. The aims of a partnering scheme were varied. There was the need to redevelop Council owned sites cleared of inappropriate housing, to deliver 100 new council homes and retain these within the Housing Revenue Account (HRA). There was also need to deliver a

further 250-450 homes of mixed tenure across the city using sustainable construction techniques, materials and renewable technologies. A partnership arrangement was deemed the best value approach to maximise economies of scale (as the partners would procure one contractor to develop all the sites identified for the scheme). This was facilitated through a partnership between the Council, a private developer (Leadbitter Construction) and the seven developing RSLs operating in Cardiff. This Partnership worked in an open and non-confrontational atmosphere to encourage lateral and radical thinking, towards a common goal of providing quality sustainable housing across all tenures.

One main issue was to provide a framework and tendering process that would satisfy the procurement rules for the RSLs and the Council whilst encouraging innovation, energy efficiency, partnering and training opportunities. Due to the value of the Scheme, the Council was required to tender the scheme through the OJEU European tendering route. The OJEU notice stated that the scheme would be for a minimum of 5 years. Leadbitter Construction won the contract for the Cardiff Partnering Scheme and was appointed as Partner developer for the scheme in 2001 to develop all the identified sites.

The aims of the scheme were achieved through a number of innovations such as:

- The tender not being based not solely on cost but on an ability to deliver Energy Efficiency, Sustainability, Agenda 21 and training initiatives
- Sustainable construction including Solar Panel innovation used
- Standardisation of specification throughout partners
- Expected Low Energy Housing across all tenures

A master-plan was developed to allocate sites ring fenced for Cardiff Partnering to the Partner RSL's, the Council or the partner contractor for development. There was no matrix drawn up but consideration was given to areas in which RSL's traditionally held stock, the type of development and previous allocation of Social Housing Grant (SHG).

The cost of the Cardiff Partnering Scheme was met in full by the proceeds of land sales. It was essential that the capital receipts were received by the Council before any commitment to incur capital expenditure was made (such as the development of council housing or council improvement and regeneration schemes). In addition, the capital receipts were ring fenced within the HRA to prohibit their use in any other competing priority area.

The scheme has enabled over 20 sites to be developed, including three for council houses (Angelina Street, Elizabeth Maisonettes and Hendre Road) and a range of tenures for social rent by housing associations, market rent and sale.

Whilst Rhondda Cynon Taf County Borough Council does not have an HRA at present (and so it would not be feasible to retain any homes developed through this approach), there are a number of transferrable elements of good practice from the Cardiff Partnering Scheme. These include:

- Procuring a common developer for a number of Council owned sites to maximise economies of scale
- Ring fencing 'bids' for Council owned sites to RSLs zoned for development in the County Borough and/or a development partner
- Master planning sites to come forward from each RSL and/or a development partner
- Ring fencing the capital receipts received for the scheme to subsidise building affordable housing in high need areas or market housing on difficult sites in the north of the County Borough

Another option could also be for Rhondda Cynon Taf CBC to utilise a procured development through a similar partnering arrangement to construct units on behalf of the Council on certain sites. The Council could then retain the freehold, but lease the units to an RSL for management minus any management fees.

### **Northern Relaxed Settlement Boundaries and Rural Exception Sites**

Policy NSA 12 of the adopted Local Development Plan provides flexibility for residential development outside but adjoining the defined settlement boundary in the north providing the proposal:

- Does not result in the construction of more than 10 dwellings
- The site is bounded on at least one side by the defined settlement boundary and the scale, form and design of the proposed development does not adversely affect the amenity or
- Character of the site, surrounding or wider area;

- The proposed development is not within a green wedge or a site designated for international, national or local importance

The important historic contribution that small sites have made to the housing land bank in the North is already recognized by the adopted LDP and the Council could explore whether any such sites are held within the Council's land portfolio with a view to bringing these sites forward. The LDP is clear that such sites do not necessarily need to be for affordable housing, and building market housing in the north would undoubtedly bolster the local housing markets.

Policy AW 3 of the adopted LDP also provides scope for Exception Sites for Affordable Housing in the Countryside. Development proposals for the provision of affordable housing outside and adjoining the identified settlement boundaries will be permitted where it can be demonstrated that:

- The proposed development cannot be accommodated within the defined settlement boundaries;
- The site does not exceed 30 dwellings or 1 hectare;
- The proposed development is solely for the provision of affordable housing to meet an identified local need;
- The proposed development is not within a Green Wedge, Special Landscape Area or within, near or adjacent to an internationally, nationally or locally designated nature conservation site.

The aim of this policy is to allow Registered Social Landlords to provide affordable housing in areas where there is an identified local need, especially given high land values and lack of land *per se* may inhibit delivery of affordable housing within the defined settlement boundaries. Again, it would be useful to determine if there are any suitable sites within the Council's portfolio and perhaps take a proactive approach to bringing these sites forward by making them available at a reduced rate to local RSLs and/or inviting sealed bids from the developing RSLs in the locality.

### **Co-operative Model**

The Council could release land to a co-operative, which could also be expanded to include other properties and sites in the future. A co-operative is a membership organisation and there is usually a one-off nominal fee to join. A co-operative requires its members to be active in the management of their homes and the minimum requirement is usually to attend

a regular monthly meeting. The members make all the decisions about how the homes are run and the process is completely democratic.

The rents are regulated by the government and are broadly similar to housing association rents. Each year, members of the co-operative have to approve any rent increase. Members have broadly similar tenancy rights as housing association tenants but there are some differences. For example, as the members own the co-operative that manages each home, members do not have a personal right to buy or acquire. There is also greater security of tenancy because only the co-operative can grant and end tenancies. Properties are also allocated through the common housing register, although subject to an interview by the co-operative to ensure the tenant is prepared to be involved in the management of their home.

#### Example: Redditch Co-operative Homes

Redditch Co-operative Homes (RCH) is the largest provider of new-build co-operative housing in the country. It is a partnership between Redditch Borough Council, Accord Housing Association and five neighbourhood co-operatives. RCH provides a comprehensive housing management and maintenance service to the five neighbourhood co-operatives within the town and aims to provide high quality, affordable and accountable social housing in Redditch. RCH are often Redditch Borough Council's preferred partner for developing new affordable housing on council-owned land. It has a strong attachment to the co-operative principles (especially self-help and accountability) and has successfully developed over 200 properties amongst the five co-operatives. The properties developed are of an excellent energy efficiency standard, with a Standard Assessment Procedure rating of 85.6, which compares to an average in the mid-50s for the town as a whole.

#### Transfer of Land; Redditch Co-operative Homes Example

Redditch Borough Council use an innovative means of transferring land for this purpose. For example, in February 2013, the Executive Committee resolved to dispose of a swimming bath site and adjacent play area. However, this was specifically by sale or transfer for the development of affordable housing to a housing association from the Council's Preferred Partner List. The Council decided to sell off the land for a nominal fee because it would cost the Council as much to demolish the building and deal with asbestos issues prior to sale as they would get back from a developer.

The associations from the Preferred Partner list were invited to submit bids, although due to the requirement for the housing association is to demolish the swimming baths, none of the submissions offered a capital receipt of more than £1. Bids were made by Rooftop Housing, Festival Housing and Redditch Co-operative Homes and were scored by a panel of councillors from both Labour and the Conservatives on set criteria, with RCH coming out on top. The panel considered each submission against the scoring matrix previously approved by Executive Committee and it will now be the responsibility of RCH to demolish the building as part of any project.

The Borough Council was able to dispose of land to a housing association at a below market value amount, under the 'financial assistance' sections of the Local Government Act 1988 (sections 24 and 25) for which a section 25 General Consent for disposal of land to a housing association is required. The proposal came within General Consent A which provides that a local authority may provide a housing association with any financial assistance or any gratuitous benefit consisting of disposal of land for development as housing accommodation.

#### Lessons for Rhondda Cynon Taf Council

This is an alternative model to the 'gifting' mechanisms described earlier which Rhondda Cynon Taf CBC could look to employ. The main limitation is that there is not an existing housing co-operative in Rhondda Cynon Taf and setting up a new co-operative would undoubtedly be resource intensive initially. Nonetheless, the strong community spirit in many parts of Rhondda Cynon Taf would undoubtedly provide a platform to build on and provide an alternative tenure in the housing market.

Another key lesson from this example is the fact that it was cheaper to dispose of the site described for a nominal fee rather than address the land contamination issues. It would be useful to identify the extent of similar sites in the Council's land bank and therefore scope for disposing of land under a similar guise.

#### Summary of Key Options

- Ring fence bids to the 5 developing RSLs in Rhondda Cynon Taf for certain sites

- Pursue a partnering scheme between the Council, the five developing RSLs and a construction partner to maximise economies of scale
  
- Identify a construction partner to develop units on Council sites, which the Council could then lease to an RSL for management
  
- Master plan a range of sites for disposal for housing purposes; identifying which could potentially be disposed of for a nominal value, which have contamination issues and which could be sold privately
  
- In lower social housing need areas, consider selling land to a private housebuilder on the basis that a proportion of low cost home ownership units will be provided and the capital receipt can be partially deferred
  
- Explore new arrangements with Community Land Trusts and/or Housing Co-operatives
  
- Base tenders on a range of factors such as meeting housing need, housing standards, sustainability and energy efficiency merits; not solely on cost
  
- Ring fence certain capital receipts to enable delivery of housing on other sites
  
- Identify sites that could be developed under the Relaxed Settlement Boundary and Rural Exception Sites Policies of the LDP and proactive seek to bring them forward

