

7. AFFORDABLE HOUSING

REPORT OF: ASSISTANT CHIEF EXECUTIVE, JUDY HOLMES
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Wards Affected: All
Key Decision Yes/No

PURPOSE OF REPORT

1. To provide information to the Scrutiny Committee about the Council's role and responsibilities for meeting housing needs. It includes information on the resources available to the council to meet housing needs given the Council does not own any housing.
2. The report will set out the current acute challenges that face the council in its endeavours to meet the need for affordable housing in Mid Sussex. It proposes a range of potential options available to assist with meeting those challenges.

SUMMARY

3. The Council transferred its housing stock to Mid Sussex Housing Association (MSHA), in 1990. At the time, this transfer enabled the Council to reinvest to increase the housing supply in the district. Since then the financial framework has favoured development of new affordable housing by Register Providers (RPs), formerly known as Housing Associations or Registered Social Landlords. This means there has been virtually no new development of affordable housing by Councils.
4. Since 1990, the Council has provided new affordable housing through planning policies and RPs. Planning Policy currently requires sites over a threshold of 15 units and or 0.5 hectares provide 30% affordable housing, with a tenure ratio of 75% rented housing and 25% shared ownership. On 31st March 2017, there were 7405 units of affordable housing owned by a range of RPs with those built post 1990 primarily delivered by private developers through planning gain.
5. Further welfare reforms are due nationally and locally that will change the process of accessing and retaining affordable housing for low income households. This in turn will increase pressures on housing services. Council spending on Temporary Accommodation (TA) has significantly increased in the last financial year. It is anticipated that this will continue due to the national increase in homelessness and new duties through the Homelessness Reduction Act 2017 (HRA). In response, the Council has reviewed the resources in the Housing Needs Team to ensure the Council can meet these new duties.
6. It is therefore timely to look at options to improve the Council's affordable housing supply. There are short, medium and long-term options that could bring pace and certainty to delivery of affordable housing in the District. Some initiatives are more radical than others, for example providing more temporary accommodation within the district, and others will require a longer lead in time.

RECOMMENDATIONS

7. That the Scrutiny Committee:
 - I. Notes the contents of this report.
 - II. Agrees to an all Council workshop targeted at exploring the longer term options available to increase the supply of affordable housing
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Background

8. As a local housing authority the Council has a range of statutory responsibilities relating to meeting affordable housing need in the district. These include:-
 - assessing current and future need for affordable housing;
 - adopting measures that promote the reduction and prevention of homelessness as well as duties to households who are homeless or threatened with homelessness;
 - publishing an Allocations Scheme which enables applicants to have choice in the allocation of affordable housing (known as the Common Housing Register).
9. In addition authorities are required to address the housing and housing related needs of vulnerable people and minority groups e.g. disabled persons and gypsies and travellers.
10. Mid Sussex District Council transferred its housing stock to Mid Sussex Housing Association (MSHA), in 1990. At the time this option was promoted and recommended by government as a method of generating substantial capital receipts for the Council, part of which could then be reinvested to increase the supply of affordable housing in the district.
11. The stock transfer enabled the Council to reinvest, through capital grant to MSHA and other housing associations, to increase the supply in the district. At the time the financial regime in place to support delivery of housing, including the availability of central government grant, favoured development of new affordable housing by Housing Associations, (also known as Registered Social Landlords (RSLs) or Register Providers (RPs), over development by local authorities. Until recently, this situation has continued. This means there has been virtually no new development of affordable housing by Councils.
12. At the 31st March 2017 there were 7405 units of affordable housing in the District owned by a range of Housing Associations. 6674 for rent and the balance 731 for shared ownership. MSHA were taken over by Affinity Sutton, and now Clarion, and they own 4523 units, the largest number in the District. This represents 61% of the stock of which 65% are rented with the remainder shared ownership. By agreement, Mid Sussex exercises nomination rights over 75% of Affinity Sutton's stock in the District with the remaining 25% prioritised for their tenants who need to transfer to alternative housing.
13. Nomination rights are secured generally through a legal agreement made at the point of new development, and they enable the Council to determine who is prioritised for vacant units from those on the Common Housing Register according to the provisions of the Housing Allocation Scheme.
14. The Council holds nomination rights to the majority of the social housing owned by other Housing Associations and where the Council does not hold such rights the majority of vacant units are let to applicants on the Council's Common Housing Register. The Common Housing Register was set up to provide one route of access to the majority of the social housing District. Affinity Sutton have withdrawn from these arrangements.

Housing Enabling

15. The vast majority of affordable housing is delivered by private developers through planning gain. The Housing Enabling Team work with developers and Housing Association providers to deliver new affordable housing in compliance with the Council's affordable housing planning policies.

16. Planning Policy currently requires sites over a threshold of 15 units and or 0.5 hectares provide 30% affordable housing, with a tenure ratio of 75% rented housing and 25% shared ownership.
17. Policy DPP 29 of the emerging District Plan requires the provision of a minimum of 30% affordable housing for all residential developments providing a net increase of 11 dwellings and above or a maximum combined gross floor space of more than 1000m²; or for residential developments in the High Weald ANOB providing a net increase of 6 – 10 dwellings, a commuted payment towards off-site provision, equivalent to providing 30% on-site affordable housing. A mix of tenure will be required (normally approximately 75% social or affordable rented homes, with the remaining 25% for intermediate homes, unless the best available evidence supports a different mix).
18. Proposals that do not meet these requirements will be refused unless significant clear evidence is provided to show that the site cannot support the required affordable housing from a viability and deliverability perspective.
19. Free serviced land should be made available for the affordable housing, which should be integrated with market housing and meet the New National Space Standards introduced by the DCLG in 2015.
20. A Section 106 Agreement - Town and Country Planning Act 1990 (s106) is entered into by the developer to ensure delivery of the affordable housing along with any other planning requirements. Appendix 1 shows affordable housing delivered in the District over the last 10 years.
21. For 2017/18 the current projection for the number of new affordable homes enabled suggests that the target set by the Council of 200 new affordable homes will not be achieved by the end of the financial year. This is due to a delay to start on site on a number of housing schemes. The speed of delivery of affordable housing on s106 quota sites is determined by the developer and the market in most instances. These units are not lost but will be delivered at a later date.
22. Currently there are over 1000 affordable housing units in the planning pipeline with outline planning permission. There are currently 13 permitted applications that cannot progress due to delays in agreeing s106 terms for affordable housing.
23. In exceptional circumstances the Council can negotiate a commuted sum in lieu of affordable housing on site. This is only where it is not practical for the affordable units to be delivered within the same block such as a private older persons scheme for example.
24. The Council currently has £1,677,389 of commuted sums. A further £973,650 has been secured through s106 agreements to be paid when the developments are built out. One of these sites is on site (Garland Court) whilst the other is for sale with planning permission (Slaughman Manor).
25. The Council also works with Housing Associations to deliver more affordable housing on sites which they own, or purchase and develop themselves such as Rural Exception Sites where 100% affordable housing is delivered to meet the housing needs of specific local communities. In recent years these have been completed in Crawley Down and Ashurst Wood and a new site is due to be built out in Bolney next year.
26. The Council has also worked with providers to achieve additionality wherever possible by delivering additional units on quota sites. This was a particular feature during the recession when developers were keen to assist their cash flow by selling units to Housing Associations. The Council ask all partners to look at these options wherever possible and advised that we may be able to assist with funding.

27. The Council is working closely with developers and affordable housing providers to improve delivery rates, including tightening up the provisions in s106 agreements and exploring using the Council's own land to provide affordable housing.

Shared Ownership

28. There are currently 1481 households on the Help to Buy register who wish to buy a property in Mid Sussex with an average household income of £34,500

Housing Association Partnerships

29. The Council's relationship with Housing Association partners is critical to the Council's efforts to meet housing need. Successful and sustained partnerships work consistently well in the District. Recent changes to Government policy combined with a climate of overall financial constraints affecting both sectors have created a more challenging operational environment. Government funding and investment in affordable housing has declined. The smaller amounts available for investment have been directed towards the development of units at "affordable rents" (rents up to 80% of market rents) or to homeownership products rather than for "social rent". Social rent is typically 50%-60% of market rent. For example a three bed house to rent on the open market in Mid Sussex is currently at least £1,100.00 to £1,200.00 per month. An affordable rent is set at a maximum of £ 966.00 per month which is the Local Housing Allowance Level (LHA) and typically a social rent would be approximately £600.00 to £650.00 per month.
30. Developing Housing Associations have been required by the Government's funding regime to take this approach and to convert properties let on social rents to affordable rents in order to cross subsidise new development to make up for the reduced amount of Government subsidy. This means Housing Associations have become more commercial in their overall approach and are consequently more risk averse in relation to meeting their social objectives.
31. The establishment of higher cost affordable rents combined with welfare reforms such as the removal of the spare room subsidy, and the Benefit Cap which reduces eligibility for housing benefits means that some existing and prospective social housing tenants are unable to pay affordable rents. The consequence of this is that the gap between the Council's responsibilities to facilitate housing people in housing need and the ability and appetite for Housing Associations to build or let at social rents that those in need can afford grows wider.
32. Housing Associations are increasingly concerned to ensure that the households nominated by the Council are able to afford the rent and consequently they are applying affordability tests before accepting households on low incomes especially those subject to the Benefit Cap. However, refusal of nominations is a cause for acute concern for the council because if affordable housing is not affordable for low income households nor is the private rented sector.
33. There are some families who the Council has accepted a duty to house under the homelessness legislation who are subject to the Benefit Cap. This statutory duty means that the Council has an on-going responsibility to provide housing. In these circumstances the Council is utilising a Discretionary Housing Payment (DHP) from a cash limited annual pot to provide short term funding. DHPs cannot be applied as a long term source of funding and may not always be available or sufficient to fund such households particularly if they increase in number. The total Government contribution of DHP budget for 2017/18 was £207,133. Of this the Council has awarded £65,701 as at end of October and a further £40,305 which is due to be paid out over the rest of the year. This leaves £101,126 to use for additional interventions. The Council will be notified about the amount available for 2018/19 in March 2018.

Working with the private sector

34. In order to assist people in housing need particularly, those who are homeless or threatened with homelessness, the Housing Needs Team works with the private sector, letting agents and private landlords to enable people to rent privately. The Council operates a deposit guarantee and rent in advance loan scheme which has operated successfully for a number of years however it is increasingly difficult for those on low incomes to access the private rented sector in Mid Sussex. The Council is currently recruiting a new Private Tenancy and Sustainment Officer which will assist the team with this work, improve relationships with private landlords and prevent homelessness from this sector where ever possible. It has previously proved difficult to recruit and retain staff with the right skill set to work in this challenging environment with a reluctant private sector who are unwilling to rent to anyone reliant on benefits. The focus of the role is on preventing homelessness from within the private sector as the national data shows that the ending of a private assured shorthold tenancy is the most common cause of homelessness.
35. If households are on low incomes due to low pay or if they are wholly or partly reliant on benefits then they are entitled to assistance in the form of Housing Benefit (HB) to meet their housing costs according to their income and household size. The Local Housing Allowance (LHA) is set by the Valuation Office Agency and is used to calculate Housing Benefit for tenants renting from private landlords. LHA rates are based on private market rents being paid by tenants in the broad rental market area (BRMA).
36. Since 2010 housing benefit levels have not risen in line with rising private rents, and the current freeze means that rates remain frozen at their 2016 levels until 2020, regardless of how much private rents increase. This means that there is a mounting shortfall that households have to make up in the private sector typically at least as £100.00 a month in this area. Private landlords regard tenants reliant on benefits as high risk and increasingly will not accept them as tenants when they can let their properties to more affluent households.

Further welfare reforms

37. Further welfare reforms are due to be applied nationally and locally which will make accessing and retaining affordable housing more difficult for low income households. This in turn will increase pressures on housing services.
38. Universal Credit is due to be rolled out to all new claimants in Mid Sussex from March 2018. Claimants typically have to wait 6 to 7 weeks for this benefit following a claim and there is no entitlement to benefit at all for the first seven days. Universal Credit is paid a month in arrears direct to the recipient with the intention of giving people more responsibility and control over their finances. This differs from Housing Benefit where typically the benefit is paid direct to the landlord of social tenants.
39. Evidence from areas where Universal Credit has already been rolled out demonstrate that tenants arrears levels rise steeply and there is consequential increased possession action by landlords and increased homelessness. Evidence also suggests that private landlords will be more reluctant to rent to people reliant on Universal Credit in future because of the negative perceptions about this benefit, the delays in payments and the claimants capacity to manage their finances.
40. The Government has recently responded to some of the concerns and is planning to introduce a trusted partner scheme for social landlords including a landlord's portal which should assist with the management of claimants housing costs element of the benefit. It will allow landlords to identify vulnerable tenants whose rent can be paid direct.

41. The Government has also indicated that it will not progress with the proposal to link the Local Housing Allowance to social housing rents which was due to take place in March 2019. This was a cause for concern because of the gaps that would be created by rents over LHA levels

Homelessness

Mid Sussex Facts and figures

42. As at 30th September 2017 there were 53 households in temporary accommodation. Of these 27 were in paid for guest houses outside of the District. 12 of these households had children or were expecting children. The other households were single people or couples who were “vulnerable” and in priority need for assistance. 26 households were in temporary accommodation provided for our use in the Mid Sussex District by partner Housing Associations. Appendix 2 shows the numbers on the Housing Register and those accepted as homeless and numbers in temporary accommodation.
43. Appendix 3 shows the Council’s spend on Temporary Accommodation over the last 10 years.
44. It is evident that the amount the Council is spending on Temporary Accommodation has significantly increased in the last financial year. It is anticipated that this trend will continue due to the national increase in homelessness and new duties through the HRA 2017. There is also the likelihood that the net spend may increase with the impact of Universal Credit and the removal of the Temporary Accommodation subsidy from Housing Benefit. The proposed budget for Temporary Accommodation for 2018/19 is £593,489 based on extrapolated trend analysis.

Homelessness Reduction Act

45. The Homeless Reduction Act 2017 (HRA 2017) comes into force in April 2018. This is the first major piece of homelessness legislation for 15 years and will result in additional pressures on Councils.
46. The HRA 2017 will amend current duties under existing legislation and places new homelessness prevention and relief duties on Local Authorities to prevent homelessness, or if that fails, or applicants are already homeless, to relieve homelessness for all families and single people, regardless of priority need, who are eligible for assistance and threatened with homelessness. The HRA 2017 aims to ensure provision of new support to people who are not entitled to help under the current system. Whilst the Council has always tried to prevent homelessness, this is now a statutory duty requiring additional work.

Key Provisions of the Homeless Reduction Act 2017

47. The new prevention duty will require local housing authorities to take reasonable steps to help the household threatened with homelessness to remain in their current home or help them to find somewhere else to live. It also extends the period that the Council should consider a household threatened with homelessness from 28 to 56 days. This duty will arise irrespective of their connection to the area. These provisions represent a shift in focus to early intervention, to encourage Councils to act quickly and proactively, addressing concerns that some Councils previously only intervened at crisis point. The aim being that fewer households reach a crisis situation.
48. The new relief duty will require Councils to take reasonable steps to relieve homelessness for all eligible households where prevention has failed or they are already homeless. The Council will have to provide those who have a priority need

with interim accommodation whilst it carries out the reasonable steps if they have a local connection to the area. This is similar to the Council's existing duties.

49. The HRA 2017 also provides that care leavers who become homeless will now be able to demonstrate a local connection to the area where they were looked after and owes them leaving care duties, or where they have lived for a minimum of 2 years. This may increase the number of households applying to Mid Sussex District Council as homeless.

Key Implications for and Pressures on the Council of the Homelessness Reduction Act 2017

Increased workload for the Housing Needs Team

50. The number of homeless applications and need for in depth casework is likely to increase substantially. More specialist staff resources will need to be available to respond to the increase in demand and workloads. All households who approach the Council as homeless or threatened with homelessness, must have a full assessment and be provided with a full Personalised Housing Plan (PHP) in writing. This means every application will require substantially more casework and most cases will require longer intervention, with increased paperwork.
51. When the HRA 2017 was introduced in Wales, the number of applications rose by 26% and there was no duty on other public bodies to refer as will be the case in England. It is therefore anticipated that applications may rise by up to 50%.

Increased number of review rights

52. The current legislation gives applicants the right to request a review of any decision the Council makes in connection with their homeless application. Historically the number of reviews received has been low, however, the HRA 2017 provides applicants with significantly increased rights to seek reviews of the Council's decision at each stage of the assessment process and over any aspect of the PHP they disagree with. This could result in multiple reviews for the same household at different stages of the homelessness process and it is anticipated that the time scales by when some review rights need to be completed will be substantially shorter. This will generate further work for Officers in terms of undertaking and issuing review decisions and potentially defending County Court appeals.

Duty to refer

53. A number of other local agencies (defined as 'public sector' organisations) will need to be made aware of the new duties under the Act to identify clients who may be at risk of homelessness and refer them to the Council. The Council will need to ensure appropriate referral arrangements are in place and adequate resources are available to respond to those referrals.

Increased Temporary Accommodation costs

54. Temporary Accommodation costs are expected to increase because the length of time the Council will be under a duty to provide temporary accommodation to households may be longer. This is because the Council will have to provide temporary accommodation for all households with a priority need who become homeless under the new 56 day relief duty. The HRA 2017 also requires Councils to assist those threatened with homelessness due to eviction from private rented earlier in the process to avoid landlords having to take court action. Temporary Accommodation costs will certainly rise as a result of the Council having to accommodate households for longer.

55. As previously stated the roll out of Universal Credit will have a further negative impact on Temporary Accommodation costs and staff time. Claimants are not entitled to any payment at all for the first 7 days, including any housing costs. Therefore the Council will not receive any funding for the first 7 days of a placement. Other councils have found that even when they have applied for the housing costs to be paid direct to the council; it can take up to 2 months for that part of the claim to be processed and in the meantime the housing element is paid direct to the applicant.

Review of Team roles and structures & DCLG funding for mitigation

56. In response to these increased duties the Council has reviewed the resources in the Housing Needs Team to ensure the Council can meet its new duties. The Council has created a new post of Temporary Accommodation and Homeless Prevention Officer. This post will support households in Temporary Accommodation to enable them to move on as swiftly as possible into more permanent housing in either the social or private sectors and will also work to prevent households losing their existing accommodation. This post is funded for two years through DCLG Flexible Homelessness Grant.
57. Mid Sussex has received £192,927 Flexible Homelessness Grant in 2017/18 and will receive a further £221,981 in 2018/19. This is not totally new money and includes a transfer of funds from DWP to DCLG as a result of changes to HB rules, whereby funding previously paid through the HB scheme for some specific types of temporary accommodation have been withdrawn. Part of the Mid Sussex Flexible Homeless Grant is being used to make up this shortfall. It is the Council's intention to utilise this funding flexibly to prevent homelessness through a range of initiatives and individual interventions.
58. The DCLG have made available "new burdens" funding in recognition of the additional duties and resource requirements of the HRA 2017. The funding is provided over 3 years on the assumption that homelessness will be reduced following the application of the legislation and the resources will no longer be required. MSDC's modest funding is as follows.

2017-2018	£28,675
2018-2019	£26,266
2019-2020	£27,765
Total	£82,706

59. The Council is considering using this funding to recruit a temporary administration officer to assist with the considerable administrative complexities, data entry and monitoring that the new legislation requires. This should free up officer and manager time for homelessness casework and prevention
60. Homelessness prevention will continue to be extremely challenging, due to a combination of Welfare Reform, Benefit Cap, Universal Credit and a large number of private landlords either leaving the market or refusing to take on benefit claimants as tenants.

Options for members to consider

61. The report has set out the position in relation to affordable housing in Mid Sussex and the challenges. In these circumstances it is timely to look at options to improve the Council's affordable housing supply. There are potentially a number of ways in

which the Council could bring pace and certainty to delivery of affordable housing in the District. Some initiatives are more radical than others and will require a longer lead in time. Below are several potential options:-

Short Term Options

62. Options available to provide more temporary accommodation in the district.

- The Council purchasing an existing property and remodel.
- The Council purchasing a site and or using its own land holdings to develop Temporary Accommodation.
- The Council engaging a Housing Association to purchase a site to develop a bespoke scheme or to purchase off the shelf units which they would manage for our use.

Funding options include utilising commuted sums, Capital reserves or borrowing via the Public Works Loans Board.

- The Council would arrange the management of the Temporary Accommodation, if it is in its ownership, through a Housing Association. This will incur a management fee.
- Improving delivery through planning. The Council has started work on an Affordable Housing SPD. This will give the Council an opportunity to consider how it works with developers and Housing Associations to use the planning system to bring pace and certainty to the delivery of housing through planning.

Medium Term options

63. Options to increase the delivery of affordable housing by direct Council enabling

- The Council uses its own assets, sites owned by the council on which to develop a maximum amount of affordable housing. Social benefits to be weighed against the financial returns to the council of conventional development. The Council has already started to consider this and has some sites under consideration.
- The Council purchases development sites on which to deliver affordable housing either as a joint venture with a housing association or in its own right.

Funding options are commuted sums, borrowing via Public Works Loan Board (PWLB) or the Council's own Capital Reserves.

Longer Term Options

64. Options for the Council to develop housing

- The Council could establish a local housing company in order to build new council owned homes through a special purpose vehicle outside of the Housing Revenue Account to pursue housing and other property development, to hold assets on behalf of the authority and to deliver commercial returns.
- This could include housing of all tenures including affordable and potentially private rent to generate an income stream.

- There are a range of delivery models reflecting different local financial contexts and political priorities which would need to be fully evaluated and quantified in order to gauge the efficacy of setting up such a company.

These options will need to be carefully considered and worked up.

65. The Committee are asked to agree to hold a workshop for all Members of the Council to explore the aforementioned options in more detail, in particular the longer term more complex options.

Financial Implications

66. There are no financial implications arising from this report as it is for members' information only.

Other Material Implications

67. None at this stage

APPENDIX 1

Affordable Housing delivery March 2007 – to March 2017

	Intermediate/Rent key worker	Home/Buy/Shared Equity	Rent	Shared ownership	Total
2006-2007			4	29	73
2007-2008	2	12	48	43	105
2008-2009		20	110	28	158
2009-2010	20	14	62	61	157
2010-2011		2	67	16	85
2011-2012		10	131	61	202
2012-2013		11	75	22	108
2013-2014			114	12	126
2014-2015			161	60	221
2015-2016			84	29	113
2016-2017			118	58	176
					1524

The tenure mix of units and overall delivery reflects the prevailing development climate, the availability and types of funding through the Homes and Communities Agency and other funding sources including funding from the Council's commuted sums.

Housing Register & Homelessness figures at end of March since 2007

As at end of March	Numbers on Housing Register	Homelessness Acceptances	Numbers in Temporary Accommodation
2007	2744	65	31
2008	2852	40	29
2009	2769	26	22
2010	3448	32	25
2011	3165	46	27
2012	4170	38	27
2013	4856	49	39
2014	5281	45	26
2015	1759	38	30
2016	1420	39	43
2017	1243	44	48

The reasons behind the significant reduction in numbers on the housing register from 2014 to 2015 onwards are a result of a combination of the following factors:

- Introduction of requirement to have a Local Connection and strengthening of the criteria to qualify to join and remain on the Common Housing Register in line with the Localism Act 2011
- The removal of Affinity Sutton tenants who are no longer able to join the Common Housing Register.
- Introduction of annual review to remove all those who have not bid for housing for 12 months.

APPENDIX 3

The table below shows the Council's spending on Temporary Accommodation over the last 10 years.

As at the end of March	TA Budget	Gross spend	Net spend
2007	78,577	192,881	90,238
2008	93,824	169,387	41,002
2009	39,824	151,263	64,345
2010	39,824	138,310	38,137
2011	39,824	251,378	24,781
2012	126,824	342,283	192,068
2013	226,977	240,688	120,350
2014	176,977	190,110	105,141
2015	126,977	121,779	66,645
2016	88,977	240,450	130,769
2017	100,977	433,326	254,069
2017/18	Base Budget was £370,853 but pressure of £89,604 identified increasing it to £460,457.		