

4. Recommendations

- 4.1 That authority be granted to the Assistant Director Planning and Regeneration to approve variations to Section 106 Agreements relating to affordable housing tenures taking into account the recommendations of the Head of Housing Strategy, Development and Partnerships after consultation and agreement with the Cabinet Member for Housing.
- 4.2 That the Rent to Homebuy scheme shall in the first instance be marketed to Key Worker groups and thereafter cascade to Haringey's usual prioritisation.
- 4.3 That variation to the relevant section 106 agreements to permit the cascade from shared ownership to Rent to HomeBuy be approved for the following consents:
- 4.4 HGY/2005/1439, Academia Way, White Hart Lane, N17 8HQ
- 4.5 HGY/2005/1814, Reform Row, N17 9AQ
- 4.6 HGY/2005/1173, 278 High Road, N15
- 4.7 HGY/2004/2292, 280-296 High Road, N15

5. Reasons for recommendations

- 5.1 The recommendations are to enable the current programme for provision of affordable housing to be managed to meet the needs of qualifying applicants and assist the Council's partners in achieving occupation of housing stock on terms which accord with local policies.
- 5.2 Without the proposed cascade mechanism a number of shared ownership properties will remain empty due to the reasons outlined in this report and could be at greater risk from vandalism and squatting.
- 5.3 In the current economic climate RSLs are increasingly hesitant to start new housing projects for, among other reasons, the threat of not being able to sell shared ownership properties on completion; as such the proposed variations will act as a safety net and serve to encourage new development.
- 5.4 The proposals are to allow the delivery of Shared Ownership by the Rent to HomeBuy process and as such applicants will be assessed on shared ownership criteria. This measure will go some way to ensure that after the interim period of Rent to HomeBuy, applicants will be in a position to purchase.
- 5.5 The cascade from Shared Ownership to Rent to HomeBuy will not affect the Council's tenure mix policy of 70/30 rent/intermediate. Rent to HomeBuy is classified as an intermediate tenure.

6. Other options considered

- 6.1 A draft scheme to require savings to be accumulated has been the subject of some consultation and discussion. No guidance on the form and content of options to purchase has yet been published and the funding models for different RSLs and particular schemes vary. It is difficult to be prescriptive at this early stage as to how to achieve the best take up with least problems to applicants and the RSLs and the Council as housing authority
- 6.2 Non-participation in the Rent to HomeBuy scheme has been considered and is not seen to be favourable in the current climate due to the reasons outlined under point 5.

7. Report

- 7.1 In the current collapse of the Housing market there is a particularly acute crisis for Shared Ownership new build properties which are complete or nearing completion. Shared Ownership properties are vacant and unmarketable for two key reasons: first, mortgage lending on the equity share lease of the properties is currently at a standstill, with limited prospects of recovery in 2009; and secondly, the properties are bound by Section 106 Agreements which require the tenure of the properties to be Shared Ownership leases. There is a pressing need to clarify alternatives to enable the legal agreements to be varied and to bring the properties into beneficial use rather than remaining empty at huge and mounting cost.
- 7.2 Rent to HomeBuy is the Government's scheme designed to rescue unsold Shared Ownership and help drive the affordable housing market forward. It has been announced to be on a pilot basis for three years, and will then be reviewed. Occupiers will be on tenancies at a maximum of 80% of market rents for a maximum of 5 years and have a right to purchase at any time. The period of the tenancy was originally three years with a possible increase to five years; after three years the arrangements will be reviewed by Housing and Planning. The tenancy period at sub-market rents is intended to allow the occupiers time to save in order to be eligible for a mortgage. After the end of the tenancy, if the tenants have not purchased the tenancy comes to an end and the property will be remarketed.
- 7.3 The introduction of this scheme coincides with the major reorganisation of the Housing Corporation and English Partnerships to form Homes for Communities Agency (HCA) from the 1 December 2008. At a meeting in early January seeking clarification of the mechanics of the scheme and the terms of the option agreement, the HCA Regional Office indicated that they would like to seek a generic scheme for London and that grant for RSLs would assume that the rent would be at 80% of market rent and that the grant would not allow for incentives in the rent to enable deposits.
- 7.4 A straw poll consultation among North London Local Authorities and RSL partners

has shown support for a scheme to incentivise savings possibly with discounts and particularly so as to achieve a sale and purchase after the end of the third year. Enfield would like to work on a joint model with Haringey. But RSLs have different grant arrangements for different schemes and what may be viable for one site may not be viable in another. All RSLs with Shared Ownership properties in Haringey wish to be able to market properties on an alternative basis to the existing Section 106 Agreements.

7.5 The RSLs which have made specific requests for variation of the Section 106 Agreements to date are as follows:

Genesis, schemes at Academia Way and Reform Row
L&Q, High Road scheme

Whilst the specific recommendations of this report relate to these schemes in their entirety, only those units that have failed to sell will be cascaded to Rent to HomeBuy; that is 3 units at Academia Way (of 41), 10 units at Reform Row (of 19), 20 units at High Road (of 20).

These RSLs have been consulted on this draft report, and particularly on the issue as to how to safeguard the interests of applicants and the housing objectives of the policy. If applicants purchase the objective is that the property should remain in beneficial use of the applicants and their families and not rented to tenants who have recourse to benefits. After five years the tenants will not be allowed to continue occupying at sub market rents. If they have accrued a financial deposit and do not wish to purchase, they should not be in priority housing need. After five years applicants should again be offered Shared Ownership leases. It is suggested that RSLs be encouraged to offer an incentive to tenants to purchase after three years.

The response to consultation is as follows:

Of those RSLs consulted, two made comments on the report (as below) and two further RSLs expressed a desire to cascade shared ownership unit to Rent to HomeBuy (Network and L&Q)

Circle Anglia

Our comment on the draft report is that we would hope that RSL's will be given flexibility between selling or renting any given unit as Shared Ownership or Rent to Homebuy therefore allowing us to make a quick decision based on the purchasers/tenants affordability criteria for the particular unit they would like to purchase/rent.

Regarding the offer of incentives following the 3 or 5 year period; we are discussing options around this at present but have not yet begun modelling the out-turn effects.

Current possibilities include passing on the funds set aside for refurbishment of the unit that we would have had to pay should the unit have needed to be rented or sold to a third party (currently £2,000 is being allowed for this). As well as this we will be

allowing for a three month void period should the tenant not proceed to purchase but if they do proceed to purchase we are looking at allowing the three month period as a rent free benefit.

Genesis

The report made for pleasing reading as it will hopefully speed up the process. Genesis will seek to promote low cost home ownership first and foremost, reverting to Rent to HomeBuy if required due to stagnant sales, or cost to value ration drops below a break even point.

- 7.6 This is a Joint Report because there is a difference between the Planning and Housing functions in the Council's responsibilities for affordable housing. The Planning Authority regulates the use and development of land and has regard to Housing policies and Housing Needs Assessments in formulating and applying the relevant planning policies and other material considerations to individual scheme proposals. The Housing function is in the provision and delivery of the partnership management of the units to applicants for housing who qualify under the Allocations Scheme. The Annual Report to GoL records performance during each year including Section 106 outputs and delivery on the housing delivery trajectory for the relevant period – currently up to 2017. There is also a difference in roles of the two services which is reflected in the recommendations: the overall responsibility for Section 106 performance is a planning function but the partnership arrangements with RSLs is a housing function.
- 7.7 It is not considered practicable to report individual variations of Section 106 Agreements to the Planning Committee and it is recommended that the negotiations be conducted by the Housing Service in Consultation and agreement with the Cabinet Member for Housing and that the authority to approve variations be delegated to the Assistant Director Planning and Regeneration. There is a Section 106 Monitoring Officer in the Planning Service who will need to collate the variations and ensure that the Annual Report to GoL includes the details of progress in this area of housing supply.
- 7.8 Recommendations (as in 4.1 and 4.2 above)

8. Head of Legal Services Comments

- a. The Head of Legal Services Comments that Section 106 Agreements can only be varied by agreement during the first five years. After five years have elapsed then an application can be made to the Planning Authority to modify or discharge the Agreement under Section 106A of the Act with a right of Appeal to the Planning Inspectorate under Section 106B.
- b. The Agreements have to be formal documents made under seal. This is a

provision of the Act. It follows that variations must also be formal documents and cannot be dealt with by correspondence or e-mails.

- c. The Rent to HomeBuy proposals of the Government are in their infancy and have been established for a pilot period initially.
- d. The recommendations contain flexibility and can be adopted at this stage if the Committee agree. If Government policy changes during or after the pilot period so as to affect the deliverability of this aspect of affordable housing a report back to the Planning Committee will be needed

9. Equalities & Community Cohesion Comments

- a. By preserving properties that remain unsold as shared ownership after an interim rental period we will be helping to preserve the balance between social rented accommodation and avenues to home ownership. By preserving the ideals of sustainability of tenure the Council is seeking to ensure that today's solutions do not become tomorrow's problems.

10. Consultation

- a. See point 7.5