

REPORT FOR DECISION

Agenda Item	
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DECISION OF:	Cabinet
DATE:	22/8/12
SUBJECT:	Radcliffe Regeneration Strategy: Refurbishment of Empty Properties into Pilot Productive Use (and the approval of accumulated commuted sums)
REPORT FROM:	Cabinet Member Neighbourhoods and Regeneration
CONTACT OFFICER:	Sharon Hanbury – Head of Urban Renewal Crispian Logue – Principal Planning Officer
TYPE OF DECISION:	CABINET (KEY DECISION)
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>This is a joint report from Adult Care Services and Environment and Development Services, relating to the development and delivery of a pilot project to training and address unemployment issues and to tackle the problem of empty private sector properties in Radcliffe; supported and part funded by £617,000 accumulated commuted sums from the Council’s Affordable Housing Planning Policy.</p> <p>This Pilot forms part of the Council’s overall Regeneration Strategy for the Borough and more particularly the Regeneration Strategy for Radcliffe.</p> <p>The funding available via commuted sums to bring empty priorities back into productive use will also provide an opportunity for community benefit in the terms of employment and training opportunities for local people, this pilot provides an opportunity to align two Council priorities: To lever support from partners to address empty properties and to address local unemployment issues.</p>

	<p>Bringing empty properties back into use for affordable housing is a good fit with the rules governing the use of the ring-fenced commuted sums and will contribute significantly to delivering the objectives within the Unitary Development Plan, Affordable Housing Strategy, Empty Property Strategy, wider Housing Strategy and the Council's Regeneration Strategy.</p> <p>Delivering the pilot project in partnership with registered providers provides greater value for money opportunities, given the additional resources that they are able to contribute. Delivering additional options alongside those available through the commuted sums ensures best use of resources and increased ability to deliver an impact.</p>
<p>OPTIONS & RECOMMENDED OPTION</p>	<p>Options:</p> <p>Option 1</p> <p>A. Approval to establish and deliver a pilot project to tackle local unemployment issues and private sector empty properties in Radcliffe.</p> <p>B. Approval to spend £617,000 of accumulated Affordable Housing commuted sums (received in lieu of affordable housing provision on larger housing development sites) to part fund the Radcliffe empty property pilot, in line with housing and planning policies and the rules governing affordable housing and the use of commuted sums.</p> <p>C. Delegate agreement and approval of relevant detailed matters to the Executive Director of Environment and Development Services and the Executive Director of Resources, in consultation with the Cabinet Member for Resources and the Cabinet Member for Neighbourhoods and Regeneration. The detailed matters include how training and employment criteria will be incorporated into the pilot and how the commuted sums monies will be split across the registered providers, the financial appraisal per property and other relevant detailed agreements between the Council and the registered providers.</p> <p>Option 2 Do nothing</p> <p>Recommended option is Option 1 as this will enable the delivery of a pilot which will address local unemployment issues and tackle the significant problem of private sector empty properties in Radcliffe; making best use of available resources. The pilot project is expected to have significant outcomes with the lessons learned being fed into future proposals in other areas of the Borough.</p>

	Creating affordable housing through this project provides for a good and value for money fit in the use of the commuted sums monies, against which there are no competing priorities.
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	<p>This proposal seeks to utilise s106 funds which are specifically earmarked for affordable housing initiatives.</p> <p>The report outlines the logic for the project and addresses practical issues e.g. how properties will be selected.</p> <p>The s106 contribution will act as a catalyst to lever in additional resources from developers / registered landlords.</p> <p>The project will run for 3 years, and be capped at £617,000 (in total).</p> <p>There is no call on other Council budgets.</p>
Statement by Executive Director of Resources:	<p>The principles set out in the report are supported and there are no other direct resource implications.</p> <p>As the report makes clear, there are a number of detailed issues that now need to be worked through and it is important that there is transparency around matters such as the selection of partner landlords, funding required per property, nomination rights and other returns on the Council's investment and so on and so the proposals for operating delegation of these matters is welcomed.</p>
Equality/Diversity implications:	No (see paragraph 12.2 below)
Considered by Monitoring Officer:	<p>Yes Comments</p> <p>The report has correctly reflected that monies secured for affordable housing through s.106 agreements/undertakings are held on trust by the Council and are ring-fenced for the particular purpose, which is governed by the agreements themselves. Any monies must be spent only in accordance with and contemplation of the terms of the</p>

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	agreements, otherwise the Council will be at risk of successful legal challenge and the additional costs and other risks associated therewith, as case law has clearly shown. Case law also identifies that a Court will be reluctant to imply terms into s.106 agreements. Where there is any doubt or ambiguity whatsoever, legal advice should be sought, which is acknowledged in the reporting.
Wards Affected:	Radcliffe North, Radcliffe East and Radcliffe West
Scrutiny Interest:	Overview and Scrutiny Committee

TRACKING/PROCESS

DIRECTOR: EDS AND ACS

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
7.8.12	27.7.12	18.7.12	During development
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 Empty property is becoming a more prominent issue both nationally and locally – not just because of the visual impact they can have in an area but the fact they are a wasted resource. Houses are lying empty whilst housing waiting lists are rising and demand for affordable housing is high.
- 1.2 The Council has accumulated commuted sums of £617k from the Council’s Planning Policy on Affordable Housing, as set out in the Unitary Development Plan and supplemented by Development Control Policy Guidance Note 5 – Affordable Housing in New Housing Developments (DCPGN5). These monies have been secured in lieu of affordable housing on site through s106 agreements. It is important to note that these monies are ring-fenced and can only be used to deliver affordable housing within the Borough, in accordance with planning regulations and under the terms of each individual s106.
- 1.3 The proposal to use the accumulated commuted sums to return empty properties back to use is acceptable in principle but only on the basis that the properties become affordable properties. It would not be possible to use the monies to return the properties back to private use as this could result in a successful legal challenge to the use of the monies being used for something for what they were not intended.

- 1.4 This proposal also seeks to address local unemployment and training issues by building in employment and training criteria into this Pilot.

2.0 ISSUES

Regeneration Policy Context

- 2.1 The Council has through the Economic Development Strategy and the Neighbourhood Renewal Strategy set out clear regeneration priorities for the Borough concentrating on those areas that feature prominently in the Index of Multiple Deprivation (IMD). Those areas relate to a mixture of wards and Super Output Areas (SOAS) mainly in the Bury East, Prestwich, Radcliffe and Whitefield and Unsworth Townships.

The Council has made a commitment to support regeneration in the areas according to the specific type of need and opportunity in each of those areas and the availability of funds and any rules governing the use of those funds.

The case for the pilot to be delivered in Radcliffe

- 2.2 Compared to other townships, Radcliffe has the highest concentration of private sector empty properties, containing clusters of empty properties on the main arterial routes leading into the town centre. This in itself has a significant negative impact upon the area. In addition Radcliffe demonstrates high levels of deprivation and including worklessness and there are higher levels of private sector housing in poor condition.
- 2.3 Concentrating on this township area, on a cluster basis, makes for best use of available resources. This approach provides for a much greater impact than otherwise would be achieved if resources were spread across a wider geographical area. If this pilot is successful its approach will be rolled out into other townships areas according to the Council's Regeneration Strategy and the availability of resources to fund further schemes.
- 2.4 Making an impact on the empty properties in Radcliffe will bring much needed additional affordable housing into the area, as demonstrated by the recent Housing Needs Survey. It will also contribute to the prevention of further decline in the area as well as contributing to other economic regeneration in the area by promoting, local employment and training opportunities.

3.0 How the properties will be selected for action

- 3.1 The project will target private sector empty properties which have been vacant for over six months. It will supplement rather than replace the housing market such that it will not intervene where properties are for sale or are already being offered for let; the focus will be on properties where no action is being taken or previous attempts have failed.
- 3.2 The aim is to maximise the impact of the project and concentrate resources in areas where it will make most difference. Evidence, including survey work, shows that there are four main clusters of empty properties containing a total of 36 empty properties grouped around the main roads into Radcliffe:
 - Ainsworth Road/Lever Street
 - Bolton Road/Water Street/Water Lane
 - Bury Rd/Church St West/Cross Lane

- Outwood Road/Albion Street/Stand Lane

These clusters, containing empty properties categorised by impact level, are marked on the attached map.

4.0 Options and approaches to tackling the empty properties as part of this pilot

- 4.1 In relation to the commuted sums monies, there are two options that offer best value:
- Purchase, improvement and affordable rent
 - Purchase, improvement and shared ownership

Our approach will be tailored to the needs of individual properties but in broad terms, the Council is looking for social landlords (registered providers) to apply their own resources to reduce the level of empty properties. The commuted sums pot is to be used on the more problematic dwellings which require additional funds to make the work viable. Sample costings indicate that the providers will fund the majority of the work themselves, bringing capacity and experience (as well as money) to deliver affordable housing.

- 4.2 The commuted sums monies can only be used to deliver affordable housing and cannot be used to bring back empty properties for market sale or rent. However, the Urban Renewal team will also offer various options to encourage owners to bring houses back into use including informal advice, the use of selective enforcement and the exploration of additional options with other organisations, including registered providers.
- 4.3 Therefore, it is expected that used in combination, there will be a number of properties brought back into use for affordable rent, market sale and market rent and to a lesser extent shared ownership. The use of nomination agreements and other mechanisms will ensure that, as far as possible, the outcomes fit within the Council's Housing Strategy and in particular meet housing need, demand for affordable housing and create mixed sustainable communities.

5.0 How many and which empty properties will be dealt with

- 5.1 There is confidence that this project can make a difference and, based on indicative costings, the commuted sums are sufficient to deal with at least 20 properties.
- 5.2 There are however caveats. These properties are in private ownership, have been vacant for a long time and will have a multitude of circumstances and issues. Until much more in-depth investigations have been carried out, we will not know the degree of difficulty or which technique will work best to get the property occupied. Ownership issues in particular can be time consuming.
- 5.3 In simple cash terms, the resource levels cannot address all 36 properties in these clusters. An important aspect of the pilot will be therefore to assess how we can best use the funding in combination with other options and the resources available to housing providers to maximise impact and improve outcomes for local people.
- 5.4 It is proposed to develop and deliver this project as a pilot over the next 2-3 years with a view to rolling out the lessons learned to other parts of the Borough.

6.0 Background to the commuted sums monies

- 6.1 The Unitary Development Plan includes an affordable housing policy that seeks to secure affordable housing as part of large residential developments (15 or more units). This is supported by more detailed guidance in the DCPGN5. Whilst the Policy target is for 25% of all units to be affordable, the eventual amount and type of affordable housing secured often relates to the viability of delivering affordable housing on a site.
- 6.2 The Planning Policy seeks to deliver affordable housing on site as part of the developer's own scheme, as this approach makes the greatest contribution towards the Council's objectives of increasing choice and creating mixed sustainable communities.
- 6.3 In instances where the Council is unable to get a suitable purchaser for an affordable housing property, the s106 allows the private developer to sell the property on the open market on the proviso that the equivalent discount is paid to the Council to be spent on affordable housing. This has only been an issue more recently as households in need of affordable housing are struggling to access mortgages to buy the discounted properties, as most other households are in the current economic climate.
- 6.4 To date, the Council has received £617k contribution from sale on the open market of 24 affordable homes (an average discount of £25,700 per property).
- 6.5 The use of this money is ring-fenced for initiatives that support the delivery of additional affordable housing, which is governed by planning legislation and the respective s106 agreements.
- 6.6 The decision making process in relation to the use of the commuted sums accumulated by the Council in this way, below £250,000 is via an operational decision approved by the Director of Environment and Development Services in consultation with the Cabinet Member (Neighbourhoods and Regeneration). Given the level of commuted sums sought for this proposal however, i.e. above £250,000, the appropriate decision making process in this case is via a Cabinet decision.

7.0 The case for using the commuted sums monies to tackle empty properties

- 7.1 Providing that the empty properties are brought back into use in line with the definitions of affordable housing in relevant planning policy and legal requirements (namely social or affordable rent or intermediate housing in perpetuity) this is a legitimate use of the commuted sums monies. The Affordable Housing Strategy clearly recognises the role that empty property work can have in increasing affordable housing in the borough.
- 7.2 There are currently no alternative or competing plans for the accumulated commuted sums. This proposal is considered to provide an effective use of the commuted sums for the following reasons:
- The solutions are good value for money with registered providers putting in around at least three times as much resource as the Council
 - The commuted sums will act as a catalyst to bring more empty properties back into use, through the use of additional options alongside those made available through the commuted sums monies, making a

- greater impact
- The problems and detriment to the surrounding area caused by empty properties will be tackled and there will be a distinguishable positive impact in the area
- The Council will receive additional New Homes Bonus and Council Tax for bringing the empty properties back into use and increasing the affordable homes supply

8.0 Building on the pilot and rolling out the approach to other township areas

8.1 This pilot will run alongside other/existing approaches to tackling empty properties, summarised as follows:

- Various approaches in line with the Empty Property Strategy - including enforcement, advice, and the completion of 26 empty property grants within the current capital programme
- Homes and Communities Agency (HCA) funding (as part of an AGMA bid) for at least 14 private sector empty properties

Whilst some of the above will target properties in Radcliffe, these initiatives and approaches are essentially applied across the borough.

8.2 It is intended that this pilot project will be evaluated, with the lessons learned being fed into future potential approaches to tackling empty properties. This could include extending this approach to other areas/townships.

8.3 Further money is expected to come in from the planning policy, in the form of commuted sums, particularly given the current market conditions. Consideration will be given as appropriate, and decisions taken through the appropriate route/s as indicated in paragraph 6.6, to allocating any additional commuted sums to deliver empty property work.

8.4 Additionally, further consideration and developments will be undertaken as appropriate to consider other forms of funding and financial arrangements to tackle this issue going forward.

9.0 Outcomes of the Pilot

9.1 The outcomes of the project will be:

- Dealing with the significant negative impacts of empty properties
- Bringing a number of empty properties back into use, tackling an underutilised resource
- Providing employment and training opportunities
- Meeting housing need and improving the housing offer in the area
- Contributing to the delivery of the Unitary Development Plan, Affordable Housing Strategy, Empty Property Strategy and wider Housing Strategy
- Increasing revenue to the Council via New Homes Bonus and Council Tax
- Evaluation of the pilot including lessons learned to feed into considerations in relation to extending the approach to other areas

10.0 Risk Management

10.1 *That there will be a challenge from developers or others on the Council's expenditure of the commuted sums:*

Committed sums are ring-fenced for initiatives that support the delivery of additional affordable housing; governed by planning legislation and the

respective s106 agreements. This has been carefully considered in the context of this pilot. The options being developed with registered provider partners are firmly in line with the associated requirements. The exact details of how these will operate will be further developed in consultation with planning colleagues to ensure the appropriate use of the commuted sums whatever detail and circumstances later arise. In this respect the risk of any developer or others having a successful challenge on the Council's use of the commuted sums via this proposal is minimal. In relation to the appetite for a challenge, given the rationale of the approach and its root in the Affordable Housing Strategy, this risk is considered to be small.

10.2 That there are more appropriate options for expenditure/competing priorities for the commuted sums monies:

There are no existing proposals/competing priorities for this funding. The delivery of empty properties for affordable housing is recognised as an important aspect within the Affordable Housing Strategy.

10.3 That best value will not be achieved in using the commuted sums in delivering empty properties:

The options associated with the commuted sums will be delivered with registered provider partners as they can deliver both the repair and ongoing housing management required to satisfy the rules governing the use of commuted sums. Registered providers also offer advantages in that they bring resources to the table, including financial input. Additionally, the Council has confidence in these partners as they are already engaged in delivering the Borough's mainstream Affordable Housing Strategy.

In the financial appraisals on which discussions are being held, indications are that registered providers can provide at least three times what the Council can put into the scheme. Benchmarking, and assessment of alternative delivery mechanisms, will be a regular feature of the project to ensure that provider contributions represent best value. Subject to approval to this project, more detailed financial appraisals will be carried out to demonstrate the business case for each particular property.

In order to maximise value for money and outcomes for the Council, it is intended that detailed matters including: how the commuted sums monies will be split across the registered providers, the financial appraisal for each individual property in addition to other relevant detailed agreements between the Council and the registered providers, will be carefully considered. The approval of such matters will be delegated to the Executive Director of Environment and Development Services and the Executive Director of Resources, in consultation with the Cabinet Member for Resources and the Cabinet Member for Neighbourhoods and Regeneration.

There are significant non-financial outcomes from the project as set out in paragraph 9.1.

10.4 That the pilot will not deliver the appropriate outcomes:

Previous experience of managing empty property issues and improvement schemes gives confidence that this project will make a difference. It is however premature to predict the specific properties that will be tackled until we have more information on the history, constraints and challenges. It is for this reason

that we are adopting the pilot approach.

The proposed solution means that the Urban Renewal team will have a broader range of tools to address the more difficult properties. Used alongside other options, the team can be more selective in deciding which approach to adopt to get the best outcome.

The pilot will enable the use and testing of a range of options and approaches. The evaluation and lessons learned will have significant benefit in understanding what works when consideration is given to how the project can be extended across the Borough.

11.0 Consultations

- 11.1 This proposal has been jointly developed by Adult Care Services and Environment and Development Services, given the interconnections between housing and planning and in particular the funding proposal relating to the commuted sums.
- 11.2 Consultation has also been undertaken with finance colleagues. Colleagues from legal services have been involved in the Affordable Housing Strategy and decision making process associated with commuted sums. Legal Services have made clear that the s106 Agreements themselves should always be the starting point for governing where there is any expenditure of monies obtained through this process. Officers are aware that this may lead to revisiting individual s106 Agreements where necessary. Where applicable, where there is uncertainty or ambiguity, legal advice should always be sought before any expenditure or allocation of the said monies.
- 11.3 There has been significant Cabinet Member engagement with the Cabinet Members for Neighbourhoods and Regeneration and Cabinet Member for Resources. Additionally, the Radcliffe Ward Councillors have been consulted on these proposals.
- 11.4 Delivery partners, including registered providers within the Council's Joint Commissioning Partnership have also been consulted and engaged.
- 11.5 It is intended that this proposal is presented to the Radcliffe Township Forum in September 2012 for information should the proposal be accepted.
- 11.6 Empty property owners, agents and those with an interest in the empty properties have been contacted and this will be an on-going process. The objective is to engage and work with them on the options for bringing their empty properties back into use.

12.0 Equality and Diversity

- 12.1 The Equality Analysis document relating to this project is attached. There are no issues or recommendations identified in it. The Equality Analysis contact officer is Mary Wood, Principal Officer, Equalities, Adult Care Services.

13.0 CONCLUSION

- 13.1 Empty property is an increasingly prominent national and local issue. Delivering this pilot, in taking a focused approach on a geographical/cluster basis in

accordance with the Council's Regeneration Strategy, will provide for the greatest impact and best use of resources in tackling empty properties. Focusing on Radcliffe which, in comparison to other townships, has the highest concentration of private sector empty properties and associated issues such as pockets of relatively poor private sector housing, higher deprivation levels and low economic prosperity issues, ensures that we are concentrating our efforts and resources on the areas which require this the most. This Pilot will also provide employment and training opportunities in the area.

- 13.2 The provision of resources to support this pilot, in the form of commuted sums, provides confidence that this pilot will make an impact and deliver on outcomes. Bringing empty properties back into use for affordable housing is a good fit with the use of and the rules governing the ring-fenced commuted sums. Bringing in registered providers to assist with delivery provides for good value for money options, given the resources that such partners can bring.
 - 13.3 Given the above allocating these resources to support the delivery of this pilot represents the best use of these resources.
 - 13.4 The pilot will be important in providing lessons learned and feeding into the consideration of future potential approaches to tackling empty properties and promoting local employment and training opportunities which could include extending this approach to other areas/townships in accordance with priorities established in the Council's Regeneration Strategy.
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List of Background Papers:-

Plan indicating distribution of Empty Properties in Radcliffe and the four cluster areas.

- Unitary Development Plan
- Development Control Policy Guidance Note 5: Affordable Housing Provision in New Residential Developments
- Affordable Housing Strategy
- Housing Strategy
- Empty Property Strategy

Contact Details:-

Sharon Hanbury

Head of Urban Renewal
Adult Care Services
0161 253 6350
s.m.hanbury@bury.gov.uk

Harry Downie

Assistant Director, Business Re-design and Development
Adult Care Services
0161 253 7570
h.downie@bury.gov.uk

Crispian Logue

Principal Planning Officer
Environment and Development Services
0161 253 5306
c.logue@bury.gov.uk