

# ***Report to the Council***

**Committee:** Cabinet

**Date:** 17 February 2015

**Subject:** Housing

**Portfolio Holder:** Councillor D Stallan

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**Recommending:**

**That the report of the Housing Portfolio Holder be noted.**

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## **Outcome of Judicial Review Claim - Hillsden v EFDC**

I am pleased to report that the Council has successfully defended a Judicial Review Claim in the High Court, regarding the implementation of the Council's Residency Criteria for our Housing Allocations Scheme

Following the introduction of the new Housing Allocations Scheme in September 2013, a housing applicant (Ms Hillsden) was removed from the Council's Housing Register, since she no longer qualified - due to her not living in the District for more than the required 2½ years.

Following an unsuccessful internal review, Ms Hillsden applied for a Judicial Review to the High Court. In summary, she felt that her case had exceptional circumstances which officers should consider. Her three claims were:

- (a) That the wording of the Council's Housing Allocations Scheme is not clear and implies that the Director of Communities has discretion to allow applicants, who are not ordinarily eligible, to join the Council's Housing Register if their circumstances are exceptional;
- (b) That, since local authorities are "encouraged" under the Government's Code of Guidance to exercise discretion where there may be exceptional circumstances in the case of individual applicants whatever the general criteria, our Housing Allocation Scheme should include such a provision; and
- (c) That the Council did not have regard to the Code of Guidance when it considered and formulated its revised Housing Allocations Scheme

A full Judicial Review hearing was heard in the High Court on 25 & 26 September 2014, with the Judgement handed down on 7 January 2015. The Judge rejected all aspects of the Claimant's challenge, awarded the Council its costs and refused the Claimant Permission to Appeal to the Court of Appeal.

The implications for the Council, and all local housing authorities nationally, if we had lost this Judicial Review were that all local housing authorities would have to assess whether every applicant applying to join their Housing Register had any "exceptional circumstances" when assessing their eligibility - including any Local Eligibility Criteria (including any Residency Criteria). I believe that this would have caused lots of difficulties, particularly around ensuring consistent decision-making. I am therefore very pleased that the Judicial Review was successfully defended.

## **Open Market Shared Ownership Scheme – Review of EFDC’s Loan Values**

I am pleased to report that the values of the Council’s loans provided under our unique Open Market Shared Ownership (OMSO) Scheme, which we operate in partnership with B3Living (formerly Broxbourne Housing Association), have increased by over 20% within just three years.

Under the Scheme, the Council provides interest-free loans to B3Living to enable them to fund the purchase of properties off the open market, chosen by housing applicants living in the Epping Forest District, for B3Living to then provide these open market properties to those applicants on a shared ownership (“part rent / part buy”) basis.

The applicants are responsible for funding the purchase of 50% of the property (from a mortgage and deposit) and they pay a subsidised rent on the other 50% - which is purchased by B3Living, partly funded by the interest-free loan from EFDC (which amounts to 58% of B3Living’s 50% share).

On average, the monthly cost to the applicant of their mortgage and rent is around 1/3 of the cost if they had purchased the property themselves. In addition, the amount of deposit they have to pay is around half of the amount they would normally have to come up with themselves. The shared owners can also purchase additional equity shares up to 100% of the property’s value (i.e. full ownership) – referred to as “staircasing”.

From our point of view, it is a unique scheme that assists our residents to access home ownership, through shared ownership – whilst giving them a really good choice to purchase any property (within criteria) off the open market. This is instead of them being restricted to buy a newly-built shared ownership property from a very limited range of new developments under construction (which may not be in a location that the applicants want to live, or at a price they still cannot afford).

From a financial point of view, although we no longer receive the interest that we would have received on the money that we lend to B3Living, we do receive the financial benefit of any increase in the properties’ values in respect of the share that we have funded (i.e 58% of B3Living’s 50%).

We have now completed Phases 1 and 2 of theOMSO Scheme, which has resulted in 13 shared ownership properties being purchased off the open market by applicants from Epping Forest.

A recent desk-top analysis has shown that the value of the Council’s loans provided to B3Living for the first 10 properties under the Scheme has increased by an estimated 21% (£115,340) - from £552,015 to £667,355 - since the first property was purchased a little under 3 years ago, in March 2012.

I am sure that members will agree that the Scheme has not only assisted a number of local residents to access home ownership (which they would not otherwise have been able to do), it has also resulted in the Council gaining a significant financial benefit, compared to the very low interest we would have received if we had left the money in Council balances, due to the current low interest rates.

## **Provision of affordable housing on developments comprising less than 10 dwellings**

In November 2014, the Government updated the Planning Practice Guidance (PPG) on Planning Obligations in relation to the provision of affordable housing by developers on smaller sites.

As a result, due to what the Government considers to be the “disproportionate burden” of developer contributions on small-scale developers, councils are no longer able to seek any affordable housing (or any financial contributions in lieu of on-site affordable housing provision) on developments comprising 10 homes or less, which have a combined gross floor space of less than 1,000 square metres. There is an exception for some specific rural areas, but this does not relate to any areas in the Epping Forest District.

Clearly, this will have an effect on the amount of affordable housing that can be provided within the District, despite the ongoing need.

## **Council Housebuilding Programme – Current Position**

### *Phase 2 - Burton Road, Loughton*

The planning application for the development of 52 new affordable rented homes at Burton Road, Loughton was refused permission by the Area Plans Sub-Committee (South) on 7 January 2015. As a result, the Council Housebuilding Cabinet Committee will be considering its options for the future of the site at its next meeting on 5th March 2015.

### *Development Packages*

Feasibility studies for 35 of the 65 “Primary” potential development sites in the Council’s ownership have considered by the Cabinet Committee; these are in addition to the four sites in Waltham Abbey that make up Phase 1 of the Housebuilding Programme, currently on site. The approach previously agreed by the Cabinet Committee for the prioritisation of future phases and sites is on a rotational basis, in an agreed Priority Order, based on the number of housing applicants living within each location. The Cabinet Committee will therefore also be considering which sites should make up Phase 3 of the Housebuilding Programme at the March 2015 meeting.

### *Naming of buildings - Phase 1*

With the sites in Phase 1 under construction, the Cabinet Committee have consulted Waltham Abbey Parish Council and local ward councillors on possible names for the new flat blocks and roads that are being created as part of the development. The proposals put forward by the Parish Council will also be considered at the March 2015 Cabinet Committee.

The Cabinet Committee has already agreed that the new development at Harveyfields, Waltham Abbey should be named “John Scott Court”, after the Council’s former Chief Housing Officer, District Health & Housing Officer and Joint Chief Executive - who retired in 2007 after giving 29 years loyal service to the District Council and the tenants and other residents of the Epping Forest District.

### *Code for Sustainable Homes*

As part of the original Council’s original Development Strategy, the Council adopted Level 3 of the Code for Sustainable Homes (The Code) as its standard for all its homes built under its Housebuilding Programme.

In the meantime, the Government has announced its intention to introduce, in around April 2015, a new set of Building Regulations, which will likely lead to the Code being abolished.

The details of what can be expected in the new Building Regulations are still only at the consultation stage. However, the new Building Regulations are widely anticipated to be set at an equivalent standard to Level 4.

Simultaneously, at the request of the Safer, Greener and Transport Portfolio Holder, the Cabinet Committee has reviewed its standards and agreed that, starting with Phase 2 of the Housebuilding Programme, Level 4 be adopted for all future phases, at an estimated increased cost of around £1,250 per property.

### *Development Strategy*

Since its formation in March 2013, the Council Housebuilding Cabinet Committee has considered a number of policies that have shaped the way the Council is delivering its Housebuilding Programme, all of which have been included within the Council's Development Strategy, adopted by the Cabinet in September 2013. Since that time, a number of new and amended policies have been developed, which have now been incorporated in an updated Development Strategy that is due to be considered by the Cabinet at its meeting on 2 February 2015. This includes the information set out above, as well as: an Affordable Rents Policy; a policy on development sites identified for Council Housebuilding that are not developable; and agreement to accelerate the Housebuilding Programme in order to ensure that all "1-4-1 Receipts" Right to Buy sales are spent within the required three years of receipt.

### **Housing Improvements and Service Enhancements Fund - 2015/16**

For the past three years, the Cabinet has asked the Housing Scrutiny Panel to consider and recommend a proposed list of housing improvements and service enhancements utilising the additional funding arising from Government's introduction of "self-financing" for the Housing Revenue Account (HRA). This is in addition to maintaining the Council's housing stock to our new Modern Home Standard and implementing the Council's Housebuilding Programme. The service enhancements focus on improvements that provide a direct and demonstrable benefit to the Council's tenants.

After funding previous commitments and allocating a proposed £384,000 to the Major Capital Projects Reserve for future capital housing schemes, £216,000 is available for new service enhancements next year. Of this, £51,000 will be required to fund the proposed increase in the level of financial incentives offered to Council tenants wishing to downsize their accommodation (as part of the proposed new Housing Allocations Scheme) and a further £42,000 will be required to meet the HRA's costs of increasing the size of the new Corporate Fraud Team from April 2015.

At its meeting to be held on 9<sup>th</sup> February, the Housing Scrutiny Panel will therefore be considering proposals from officers for new service enhancements next year, totalling £123,000. These include:

- Introducing a more convenient, paperless, daily direct debit facility for Council tenants, to replace the 4 direct debit dates currently offered each month.
- Introducing a more convenient daily direct debit and swipe card payment facility for leaseholders.
- Providing a grant to the Epping Forest Citizens Advice Bureau to continue employing their two temporary full-time Debt Advisors for a further year, to mitigate the ongoing impact of the Government's welfare reforms

- Extending the opening hours of the Limes Centre Office, Chigwell into the afternoons as well as the mornings, enabling the range of services provided from the Office to be extended.

The Housing Scrutiny Panel will be making its recommendations on the proposed service enhancements to the meeting of Cabinet in March 2015.

### **Proposed Council rent increase and increase in charges for tenants in housing for older people – 2015/16**

The Finance and Performance Management Cabinet Committee has made its recommendations to the Cabinet (due to be considered on 2<sup>nd</sup> February 2015) on the Council rent increase and the charges for sheltered housing from April 2015.

In accordance with the Government's Social Rents Policy - which requires councils and housing associations to increase rents each year by a maximum of the Consumer Prices Index (CPI) for September plus 1% - the recommended Council rent increase next year is 2.2% (since the CPI for September 2014 was 1.2%). This is generally the rent increase that councils and housing associations across the country are applying for next year, and will increase our average Council rent by £2.10 per week, to around £97.54 per week. This can be compared to last year's much higher rent increase of 4.9%.

With regard to the charges for sheltered housing, the Council currently receives funding of just over £300,000 from Essex County Council towards the cost of providing the Council's Careline and Scheme Management Service to older Council tenants in receipt of housing benefit who live in sheltered housing. However, from April 2015, this is being cut by £133,000 per annum (43%).

I have therefore undertaken a review on how this lost income can be replaced through the charges made to service users. For the Careline Service, the Cabinet Committee agreed my proposal to spread the required increase in charges to service users (amounting to 54p per week) over the next two years. Therefore, the charge for the Careline Service will increase by 27p per week from April 2015, with tenants in receipt of housing benefit (who currently pay nothing towards the cost) meeting this additional cost themselves for the first time.

However, members will be pleased to hear that not only does the Council currently make the lowest charges for Careline services in Essex, this will continue to be the case after this proposed increase.

With regard to the Scheme Management Service at sheltered housing schemes, the Cabinet Committee agreed to recommend to the Cabinet a number of proposals following my review.

Firstly, it is proposed that a new service charge be introduced to cover some of the work currently undertaken by our Scheme Managers, that can be re-classified as "Intensive Housing Management". One of the resultant benefits is that older tenants in receipt of housing benefit are eligible to receive housing benefit to cover this cost, yet it has no adverse effect on tenants who are not in receipt of housing benefit - who already meet this cost themselves.

Secondly, although the Housing Related Support Charge should be increased by 10% to recover the lost income from the County Council, it is proposed to increase all Support Charges to tenants in sheltered housing by just 5% from April 2015, with tenants in receipt of housing benefit meeting this increased charge themselves, again, for the first time.

Thirdly, it is proposed that the credit made to the accounts of tenants in receipt of housing benefit to meet their Housing Related Support Charge is reduced by 8% next year.

Overall, from April 2015, sheltered housing tenants in receipt of housing benefit will have to pay £1.27 per week for their combined Careline and Scheme Management Service for the first time, with those living in "Area Schemes" paying 52p per week. The overall increase for tenants not in receipt of housing benefit will be 71p per week and 39p per week respectively.

Finally, it should be noted that, as a result of spreading the required increases in charges over two years instead of one year, in order to dampen the financial effect on our tenants, the Housing Revenue Account (HRA) will be subsidising the loss of the Essex CC funding by around £58,000 during 2015/16.

### **Housing Strategy Key Action Plan – 2015/16**

At its meeting to be held on 9<sup>th</sup> February 2015, the Housing Scrutiny Panel will be considering in detail a new Key Action Plan for the Council's Housing Strategy formulated by officers (comprising 36 separate actions), prior to my adoption.

The Key Action Plan sets out the proposed actions to be taken by the Council to contribute towards the achievement of the Housing Strategy's objectives over the coming year; progress with the Key Action Plan will continue to be monitored on a six-monthly basis by the Housing Scrutiny Panel (or its successor body) in the normal way, commencing July 2015.