

FROM: Audit and Risk Manager

SUBJECT: Affordable Housing
Development Programme

TO: Head of Housing

DATE: 15 March 2023

C.C. Chief Executive
Deputy Chief Executive
Head of Finance
Head of Place, Arts and Economy
Housing Strategy and
Development Manager
Portfolio Holder (Cllr Matecki)

1 Introduction

- 1.1 In accordance with the Audit Plan for 2022/23, an examination of the above subject area has recently been completed by Ian Davy, Principal Internal Auditor, and this report presents the findings and conclusions for information and, where appropriate, action.
- 1.2 Wherever possible, findings have been discussed with the staff involved in the procedures examined and their views are incorporated, where appropriate, into the report. My thanks are extended to all concerned for the help and cooperation received during the audit.

2 Background

- 2.1 The Affordable Housing Development Programme is the 'pipeline' for the delivery of affordable housing. It relates to the building of new affordable housing as opposed to the maintenance of the affordable housing stock that is already in place.
- 2.2 Currently, any housing developments of eleven or more properties are required to provide a minimum of 40% affordable housing.
- 2.3 Affordable housing comes in three different forms, and a certain percentage of each type of tenure must be present within the total made available:
- 'social' rent (60%)
 - affordable rent, which can be up to a maximum of 80% of market rent (25%)
 - shared ownership (15%)
- 2.4 The figures above are set out in the current Affordable Housing SPD (supplementary planning document) and are based on the needs identified through the 'current' Strategic Housing Market Assessment (SHMA).

- 2.5 However, as part of the current South Warwickshire Local Plan development, a new Housing Economic Development Needs Assessment (HEDNA) has been drawn up and that will feed into the new SPD when it is next revised. A new tenure type (First Homes) will also need to be reflected, based on the scheme launched by the Government in June 2021.

3 Objectives of the Audit and Coverage of Risks

- 3.1 The management and financial controls in place have been assessed to provide assurance that the risks are being managed effectively. The findings detailed in the following sections confirm whether the risks are being appropriately controlled or whether there have been issues identified that need to be addressed.
- 3.2 In terms of scope, the audit covered the following risks:
1. Lack of affordable housing leading to increases in homelessness which will impact other (general fund) budgets and cause a number of associated health and safety issues.
 2. Monies borrowed for the purchase of properties cannot be repaid due to insufficient numbers of tenants on the waiting list to pay the rents.
 3. Section 106 commuted sums are not spent in line with agreements leading to monies being clawed back by the developers.
 4. The Council does not meet the requirement of the National Planning Policy Framework in meeting housing needs.
 5. Adverse stories in the press if the Council does not adhere to the stated target for 40% affordable housing on new developments.
 6. Reputation suffers if affordable housing affects house prices or other developments.
 7. Enabling 'vehicles' (e.g. Section 106 agreements and commuted sums) are not utilised effectively.
- 3.3 These were identified during discussion between the Principal Internal Auditor, the Housing Strategy and Development Manager (HSDM) and the Housing Development Manager.
- 3.4 The work in this area impacts specific strands of the Fit for the Future strategy, such as the external People strand (under the health, homes and communities aspects) with regards to meeting the housing needs, and the internal Services strand (covering the focusing on our customers' needs aspect).
- 3.5 The work undertaken by or on behalf of Milverton Homes, the Council's own housing company, was outside of the scope for this audit, with specific audits due to be included in the future audit plans. However, where relevant, reference is made to them where there is a need for interaction between the two entities.

4 Findings

4.1 Recommendations from Previous Reports

- 4.1.1 This section is not applicable as there were no recommendations raised as part of the last audit of the subject, undertaken in July 2019.

4.2 Financial Risks and Health and Safety Risks

4.2.1 **Risk: Lack of affordable housing leading to increases in homelessness which will impact other (general fund) budgets and cause a number of associated health and safety issues.**

As highlighted above, the HSDM advised that, as part of the previous local plan process, Strategic Housing Market Assessments had been performed which fed into the Affordable Housing Supplementary Planning Document (SPD). For the new (South Warwickshire) local plan process, a Housing Economic Development Needs Assessment (HEDNA) is being undertaken with Stratford-on-Avon District Council.

At the beginning of the audit, the HEDNA was still in production, but it was finalised during the course of the audit. This will, in time, feed into a revised SPD but current developments should be based on the previously identified requirements. One area of change from the old plan is the increasing need for one-bedroom properties.

Other specific sources will be used for monitoring such as the numbers on the housing register with consideration being given to the specifics of individual sites.

A search was undertaken on the committee paper system to identify any planning applications that had required committee approval where '40% affordable' had been mentioned since 1 January 2021. This returned 25 results, although four of these were either minutes of meetings or update reports and some applications were covered at more than one meeting.

Some of the results also related to old applications that were going through the different stages of development, so testing was performed on those relating to planning applications submitted during 2021 or 2022 to ensure that the number, type, and tenure of affordable housing being included in the developments was in line with the requirements of the (current) SPD.

Of the four relevant developments identified, the reports clearly set out the number of affordable units that were required in the development and commentary was included to set out whether these met the required mix of property types (in terms of number of bedrooms) with additional narrative explanations to explain where any differences were noted and whether this was considered acceptable.

Only two made reference to the tenure mix of the affordable properties, highlighting that 'the plans submitted reflect the proposed tenure mix and provision based upon demands within the local area'.

Upon review of the Acolaid (planning) system, it was noted that Housing were included in the consultee list in relation to only two of the four applications. This will be flagged for review in future audits of Development Management.

The HSDM advised that detailed responses would be submitted in relation to all developments that they were made aware of, either informed directly or upon

review of the weekly planning lists supplied, but the responses in respect of this sample were not found on the Acolaid system or in the responses held online.

The issue was flagged with the HSDM and, whilst the responses relating to the specific cases were not discussed, she provided evidence of responses that had been submitted for three recent cases (which had not yet been presented to committee), and it was confirmed that they all provide details of the relevant requirements in terms of numbers and tenure mixes of the housing developments being proposed.

The HSDM confirmed that sites are included in the plan that are on the edge of the boundary with Coventry City Council. These would be considered as part of any overspill from that authority although there are different requirements in terms of affordable housing between the two authorities (i.e. Coventry only require 25% affordable housing on developments as opposed to WDC's requirement for 40%) and, whilst the Council would expect that the developments accord with our requirements when they are in the Council's boundaries, any cross-boundary sites are harder to agree figures for.

The new HEDNA makes a number of references to meeting 'unmet need from neighbouring authorities' and also highlights that the current Warwick District Local Plan, in Strategic Policy DS2, states that:

The Council will provide in full for the Objectively Assessed Housing Need of the district and for unmet housing need arising from outside the district where this has been agreed.

A Local Plan 'Officer Steering Group' is in place and meets regularly with Housing Strategy sending a representative to ensure that their requirements are being taken into account.

The meetings are not minuted to show that Housing Strategy are providing comments to help influence the plan. However, the HSDM provided an email that set out the rough terms of reference of the group.

The HSDM advised that a spreadsheet had previously been maintained to help monitor progress with relevant developments. This had been maintained by the Housing Strategy and Enabling Officer. However, following his departure, the spreadsheet could not be located and the HSDM was unsure if it had been maintained appropriately.

Recommendation

If the old monitoring spreadsheet cannot be located, a new version should be set up to ensure that Housing Strategy are able to keep track of progress with relevant housing developments.

4.2.2 **Risk: Monies borrowed for the purchase of properties cannot be repaid due to insufficient numbers of tenants on the waiting list to pay the rents.**

A review of reports to Cabinet / Executive identified a number of developments where the Council has agreed to buy affordable housing properties or where the Council was to build its own stock (through a developer).

The HSDM advised that developers are now generally contacting the Council to offer the houses as they know that the Council can offer more as better borrowing rates are available to the Council through the PWLB.

The schemes identified through the search include the build or purchase of just under 400 properties although these are not all due to be affordable properties (e.g. some of the properties on the Council's own developments are due to be open market properties). This figure is well below the current numbers on Homechoice (1507 households) so there is no issue anticipated with regards to being unable to let these properties once completed.

As highlighted above, the HSDM had highlighted that the new Local Plan will reflect the increasing need for one-bedroom properties. This is reflected in the current Homechoice figures, with 994 of the 1507 households having a need for one bedroom.

Some of the future requirements for affordable housing may be taken up by the Government's new 'First Homes' scheme. This new 'product' will cover 25% of the affordable housing requirements (i.e. 25% of the 40% requirement) although the HSDM advised that Homes England have asked for pilots with these initially being over and above the 40% figures.

These properties will probably come off the 'shared ownership' element of the affordable housing requirements so may not affect the number of properties that are required for those on the waiting list.

The HSDM advised that the Council uses the Proval software to check the viability of the scheme. Figures can be input into the system and it will calculate whether the NPV (net present value) is positive and what the offer price should be. It was also highlighted that the Council required higher specifications for its properties, so this has to be taken into account in the figures offered.

The Principal Accountant (Housing) (PAH) is involved in the viability assessments undertaken. She highlighted that there is no set payback target in place, but a 40-year payback period is used as the standard test (which is usually met or bettered) to see if it is a viable scheme. This was the industry standard and the normal PWLB loan period. However, when borrowing costs increased in 2019, the industry standard also increased with payback up to 55 years being acceptable.

The PAH highlighted that it is not a problem if the payback terms are longer as the Council will make sure that the income from rents funds the annual borrowing and maintenance costs. There are also a lot of contingencies built in,

with models based on worst case scenarios so, in real terms, it will mean the payback is actually a lot shorter.

The committee reports relating to the purchase of properties all include details of the payback terms for each scheme and these were found to fall into a range between 19 and 41 years.

4.2.3 **Risk: Section 106 commuted sums are not spent in line with agreements leading to monies being clawed back by the developers.**

Where a developer is unable to accommodate affordable units on site, they may agree to the payment of a 'commuted sum'. The HSDM advised that there are not many of these schemes that come forward at present, with most developers offering units within the sites being developed.

As with the main monitoring spreadsheet, there had been another spreadsheet used to keep track of commuted sums. However, this could also not be located.

A review of committee papers in relation to planning applications was undertaken, using 'commuted' as the search term. Whilst this returned 24 results from the last five years, the vast majority related to 'open spaces' as opposed to affordable housing.

In the one case identified where a commuted sum had been agreed in relation to affordable housing, the report presented to committee in the search period was actually highlighting that it was no longer needed due to the increased on-site provision.

Some outstanding commuted sums were identified through discussions with staff in Accountancy who provided details that had been passed to them by Planning staff and their own figures from the 2021/22 balance sheet. This included one recent scheme that had been approved through delegated powers rather than going to committee.

Work between the various parties was then undertaken to reconcile the figures to arrive at the monies that were currently available for use.

Recommendation

The reconciled figures should be used as the basis of a new commuted sums tracking spreadsheet, should the old one not be located.

Upon review of the legal agreements in place in respect of the monies identified, it was noted that the time limit for spending the monies had passed. There is, therefore, potential that one of the receipts (£225,544) will need to be repaid to the developer. However, the Planning spreadsheet provided suggests that this money may have been committed to a forthcoming development scheme.

Recommendation

Investigation should be undertaken to ascertain whether the 'expired' commuted sum needs to be repaid to the developer or can be used on the scheme it is shown to be committed to.

4.3 Legal and Regulatory Risks

4.3.1 Risk: The Council does not meet the requirement of the National Planning Policy Framework in meeting housing needs.

The HSDM confirmed that all relevant staff would have access to the latest version of the National Planning Policy Framework (NPPF) as it was available online.

The latest Council 'housing specific' strategy that could be located covered the period between 2014 and 2017. This had subsequently been replaced by the Housing and Homelessness Strategy from 2017 to 2020, although the full copy of the document could not be located, with the evidence base / background information being the only detail found to be held on the Council's internet site.

The latest iteration was the Homelessness and Rough Sleeping Strategy which no longer makes specific reference to Housing. The HSDM confirmed that there was no current Housing strategy and it was no longer a mandatory document; she suggested, however, that it was within the work plans for this year.

Advisory

When the new Housing Strategy is drawn up, checks should be undertaken to ensure compliance with the NPPF as appropriate.

The HSDM advised that the current Affordable Housing SPD makes reference to the definitions of affordable housing from the NPPF and covers (amongst other things) the amount of affordable housing required, the tenure mix and the expected affordable rent levels (usually no more than 80% of open market value).

The testing highlighted above confirmed that requirements set out in the SPD were being taken into consideration as part of the planning decisions taken in terms of the number of properties and the bedroom requirements, but some reports did not make reference to the split of tenures.

Rents are reviewed on an annual basis for all Council housing properties with reports to Cabinet on rent increases showing the average prices for relevant properties.

Sample testing was undertaken to ensure that the rent levels charged for a number of newly acquired properties had been set appropriately.

The PAH provided supporting documentation to confirm that the appropriate figures had been used to calculate both affordable and social rent levels, with valuations being provided by independent valuers in each case and market rent

levels being obtained from Hometrack. In one case (covering a number of properties within the same development), a supporting email included in the evidence highlighted that the market rent levels had been based on updated figures due to the turbulent economy.

The rents shown on Active H generally agreed to the calculations provided, although property numbers had been mixed up on one street. Business Administration staff in Housing confirmed that the figures shown on Active H were the correct ones for each property.

4.4 **Reputational Risks**

4.4.1 **Risk: Adverse stories in the press if the Council does not adhere to the stated target for 40% affordable housing on new developments.**

As highlighted above, the HSDM confirmed that responses are sent in relation to relevant planning applications and was aware of the need to follow up on the applications to confirm the outcomes.

The testing had highlighted that, whilst each report included sections on Affordable Housing, the level of commentary varied as to what was covered (i.e. some made no reference to tenure mix and another didn't cover plot locations) and there was generally no reflection of any specific comments provided by the Housing Strategy team as they were not included in the 'summary of representations' section.

Recommendation

Housing Strategy should review the reports regarding relevant planning applications to ensure that their comments are being accurately reflected and are, therefore, given appropriate weight when Planning Committee make their decisions.

The HSDM advised that, for all recent developments, all affordable housing is being provided on site. However, were this not to be the case, the documentation provided to justify the decision would be reviewed accordingly.

A separate search of committee papers was also undertaken to look for mentions of viability assessments to identify cases where justification was being presented where no affordable housing was to be provided as part of the development. This highlighted six instances from 1 January 2018 to the date of the search.

Two of the highlighted cases did not relate to housing provision and in the other four instances it was concluded that the schemes would not be viable if the affordable housing requirement was included.

4.4.2 **Risk: Reputation suffers if affordable housing affects house prices or other developments.**

The Affordable Housing SPD makes reference to the need for affordable homes to be integrated into the site, highlighting the need for the 'pepper-potting' of

small clusters of affordable housing within the overall development as opposed to siting them all in one part of the site and for them to not be 'visually distinguishable' from the market housing.

The HSDM advised that comments are provided to developers on the location of the plots for affordable housing and highlighted that the developers are generally quite good in the placement of the affordable housing within the developments.

The Planning Committee reports in relation to the schemes tested previously were reviewed to ensure that the location of the affordable housing was being considered for suitability. This test proved largely satisfactory with only one case not making specific mention of the issue which was attributed to the size of the development (six affordable properties from a total of fifteen within the overall development).

4.5 **Other Risks**

4.5.1 **Risk: Enabling 'vehicles' (e.g. Section 106 agreements and commuted sums) are not utilised effectively.**

The S106 agreements in place in relation to the planning applications covered by previous tests were reviewed. In each case, the S106 agreements made provision for affordable housing.

As highlighted on WP1, a search of the Planning Committee reports did not identify any commuted sums due in relation to planning applications although one recent receipt was subsequently identified through discussion with Planning and Accountancy Staff regarding other unspent commuted sums.

The Principal Accountant (Capital and Treasury) and the Assistant Accountant confirmed how the monies received would be coded which substantiated that they were included as appropriate in the Council's accounts.

However, as highlighted above, it was clear that there was a general lack of monitoring on what monies were available to spend with a need to reconcile the figures held by Planning and Accountancy in the absence of the Housing Strategy monitoring sheet, with one payment being over the agreed deadline for spending the money (see recommendations at 4.2.3 above).

Upon review of the figures provided by Accountancy and the figures on Ci Anywhere (the Council's financial management system) along with the 21/22 Infrastructure Funding Statement, it was identified that only £5,249.74 had been 'spent' from the (affordable housing) commuted sums during the previous financial year with no apparent expenditure during the current financial year. It was apparent, therefore, that there have been no grants paid to other registered providers for them to provide the affordable housing.

The HSDM confirmed this to be the case and advised that grants had generally only been paid to Waterloo Housing as part of the (now expired) partnership.

As also noted previously, the review had highlighted that some of the funds appear to have been committed to one of the Council's current schemes (the conversion of the offices at 1 Warwick Street to 21 affordable apartments).

The PAH advised that all of our S106 affordable housing sites are delivering very similar housing with similar payback terms so there is no particular requirement to review 'value for money' in relation to which sites we apply the S106 receipts to.

Capital financing is only applied at year end, with final capital balances for all housing development being identified before applying the various capital funds to the schemes for the financial year (e.g. S106 commuted sums, Right to Buy 1-4-1, Buy Back allowance, Homes England grants and borrowing) and then carry forward any unused amounts.

5 **Summary and Conclusions**

5.1 Section 3.2 sets out the risks that are under review as part of this audit. The review highlighted weaknesses against the following risks:

- Risk 1 – Lack of affordable housing leading to increases in homelessness which will impact other (general fund) budgets and cause a number of associated health and safety issues.
- Risk 3 – Section 106 commuted sums are not spent in line with agreements leading to monies being clawed back by the developers.
- Risk 5 – Adverse stories in the press if the Council does not adhere to the stated target for 40% affordable housing on new developments.
- Risk 7 – Enabling 'vehicles' (e.g. Section 106 agreements and commuted sums) are not effectively utilised.

5.2 A further 'issue' was also identified where an advisory note has been reported. In this instance, no formal recommendation is thought to be warranted, as there is no risk if action is not taken.

5.3 Whilst there are only a small number of recommendations, the relatively high priority of these, together with the apparent lack of up-to-date monitoring documentation and the possibility of losing a commuted sum of £225,544, means that we can only give a MODERATE degree of assurance that the systems and controls in place in respect of the Affordable Housing Development Programme are appropriate and are working effectively to help mitigate and control the identified risks.

5.4 The assurance bands are shown below:

Level of Assurance	Definition
Substantial	There is a sound system of control in place and compliance with the key controls.
Moderate	Whilst the system of control is broadly satisfactory, some controls are weak or non-existent and there is non-compliance with several controls.

Level of Assurance	Definition
Limited	The system of control is generally weak and there is non-compliance with controls that do exist.

6 **Management Action**

- 6.1 The recommendations arising above are reproduced in the attached Action Plan (Appendix A) for management attention.

Richard Barr
Audit and Risk Manager

Action Plan

Internal Audit of Affordable Housing Development Programme – March 2023

Report Ref.	Risk Area	Recommendation	Rating*	Responsible Officer(s)	Management Response	Target Date
4.2.1	Financial and Health and Safety Risks – Lack of affordable housing leading to increases in homelessness which will impact other (general fund) budgets and cause a number of associated health and safety issues.	If the old monitoring spreadsheet cannot be located, a new version should be set up to ensure that Housing Strategy are able to keep track of progress with relevant housing developments.	Medium	Housing Strategy and Development Manager / Development Manager (Place, Arts and Economy)	Agreed – if the old spreadsheet cannot be located, a new version will be set up.	31 March 2023
4.2.3	Financial Risks – Section 106 commuted sums are not spent in line with agreements leading to monies being clawed back by the developers. Other Risks – Enabling ‘vehicles’ (e.g. Section 106 agreements and commuted sums) are not effectively utilised.	The reconciled figures should be used as the basis of a new commuted sums tracking spreadsheet, should the old one not be located.	Medium	Principal Accountant (Housing) / Planning Monitoring Officer / Housing Strategy and Development Manager	Agreed – if the old spreadsheet cannot be located, a new version will be set up.	31 March 2023
		Investigation should be undertaken to ascertain whether the ‘expired’ commuted sum needs to be repaid to the developer or can be used on the scheme it is shown to be committed to.	Medium	Principal Accountant (Housing) / Planning Monitoring Officer / Housing Strategy and Development Manager	This will be investigated as recommended.	31 March 2023

Report Ref.	Risk Area	Recommendation	Rating*	Responsible Officer(s)	Management Response	Target Date
4.4.1	Reputational Risks – Adverse stories in the press if the Council does not adhere to the stated target for 40% affordable housing on new developments.	Housing Strategy should review the reports regarding relevant planning applications to ensure that their comments are being accurately reflected and are, therefore, given appropriate weight when Planning Committee make their decisions.	Medium	Housing Strategy and Development Manager / Development Manager (Planning)	Meetings have now been set up with Planning to ensure early input into reports.	31 March 2023

* The ratings refer to how the recommendation affects the overall risk and are defined as follows:

High: Issue of significant importance requiring urgent attention.
Medium: Issue of moderate importance requiring prompt attention.
Low: Issue of minor importance requiring attention.