

 Executive 3rd December 2014		Agenda Item No. 5
Title:	Review of Affordable Rent Policy	
For further information about this report please contact	Ken Bruno	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	N/A	
Background Papers	Housing Strategy 2014-17	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	Yes
Included within the Forward Plan? (If yes include reference number)	Yes (Ref 650)
Equality Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	31/10/14	Chris Elliott
Heads of Service	30/10/14	Andy Thompson
CMT	10/11/14	Chris Elliott, Bill Hunt, Andrew Jones
Section 151 Officer	11/11/14	Mike Snow
Monitoring Officer	10/11/14	Andrew Jones
Finance	11/11/14	Mike Snow
Portfolio Holder(s)	31/10/14	Cllr Norman Vincett
Consultation & Community Engagement		
Partner housing associations have been consulted. Two responses have been received and these are set out in appendix one.		
Health & Well-being lead: No comments.		
Prosperity lead: No comments.		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. Summary

- 1.1 Government policy since 2010 is to part-fund new affordable housing schemes from higher rents through the "Affordable Rent" tenure which allows rents to be set at up to 80% of open market rent, inclusive of service charges.
- 1.2 Due to concerns about the very high levels of private sector rents in the Warwick district the council has sought to keep rents at below the 80% maximum. It agreed, through the Housing Strategy, to seek Affordable Rents at the mid-point between social rent and 80% of market rents with a review of the policy by the end of 2014.
- 1.3 This report presents that review and appropriate recommendations.

2. Recommendations

- 2.1 That where Affordable Rent housing is being provided through planning obligations officers continue to negotiate for the average level of Affordable Rent across the site to be set at the mid-point between social rent and 80% of market rent inclusive of service charges.
- 2.2 That where Affordable Rent housing is being provided with grant funding from the Homes & Communities Agency (HCA) the council accepts rent levels at 80% of market rent inclusive of service charges, unless the resulting rent level would be above the Local Housing Allowance for the relevant Broad Rental Market Area.
- 2.3 That HCA-funded sites be considered on a case-by-case basis as to whether the council should itself grant-fund a reduction in the Affordable Rents with a separate report made to Executive where such funding is proposed.

3. Reasons for the Recommendation

- 3.1 The original reason for setting a policy for Affordable Rents at lower than the maximum was concern at the level of private sector rents in the district relative to local earnings at the lower end of the income scale. This situation remains the same. High market rents feed into high Affordable Rents and make it more difficult for people with low incomes to pay their rent without recourse to Housing Benefit. The council's Housing Strategy contains two objectives which, while not contradictory per se, are in tension due to the policy of funding new housing from higher rents. The council's policy on Affordable Rents seeks to balance these objectives by setting a level mid-way between the two extremes.
- 3.2 The HCA has indicated that where it is providing grant funding for housing schemes, it expects Affordable Rents to be set at 80% of market rent in all but exceptional circumstances. It does not consider a general concern about the level of rents locally to be sufficient reason but does acknowledge that Affordable Rents should not exceed Local Housing Allowance. The HCA would only accept rents at below 80% where the council itself provided the resources necessary to fund the rent reduction, either through its own grant-funding or by providing land at nil or reduced cost.
- 3.3 Were the council to continue to insist on Affordable Rents at less than 80% on grant-funded schemes the HCA could withdraw grant funding, potentially jeopardising the schemes.

4. Policy Framework

4.1 Policy

- 4.1.1 Early in 2014 the council adopted a new Housing Strategy for 2014-17. The Housing Strategy has three objectives, two of which are relevant to the issue of Affordable Rents: "Enabling and providing services that help people to sustain their homes"; and "Meeting the need for housing across the district". Affordable Rents at lower levels contribute to objective one while higher rents may contribute to objective two.
- 4.1.2 The policy on Affordable Rents aims to strike a balance between the two and the approach was set out in action point 2.1.8 of the strategy: "Restricting rents on Affordable Rent homes so that the average on any scheme is no more than the mid-point between average social rent and 80% of average market rent." There was also a commitment to monitor the policy and bring forward any recommendations for change in December 2014.
- 4.1.3 This report provides that review and is therefore consistent with the Housing Strategy. It recommends a continuation of the policy but with an exception for schemes where there is a danger that central government grant funding could be lost to the district contrary to objective two of the Housing Strategy.

4.2 Fit for the Future

- 4.2.1 The Housing Strategy is framed within the wider context of the council's Fit for the Future programme and makes explicit links with the Sustainable Community Strategy (SCS).
- 4.2.2 Lower rent levels can contribute to overall prosperity, well-being and health by increasing people's disposable incomes which also adds to wider economic prospects and makes it easier for people with low incomes to reduce their need for benefits.
- 4.2.3 However the National Affordable Homes Programme uses higher rents as a key component in reducing the grant needed for new affordable housing schemes which address the housing theme of the SCS. This creates a tension between priority themes which we have sought to resolve by aiming for Affordable Rents mid-way between social rent and the maximum permissible Affordable Rent.
- 4.2.4 The position of the HCA now forces the issue on grant-funded schemes and requires the council to take a view on whether it is prepared to sacrifice grant-funded schemes entirely rather than accept Affordable Rents at the maximum level on those schemes.
- 4.2.5 As regards the three strands of Fit for the Future, the existing policy to limit the levels of Affordable Rent is a people-based measure that seeks to contribute to the prosperity and well-being of individuals and families on benefits and/or lower incomes.
- 4.2.6 The introduction of an exception for HCA-funded schemes is a finance-based measure to ensure that limited central government grant for affordable housing will continue to be available in the district.

4.2.7 It does however produce a counter-intuitive end-result in that, all other things being equal, grant-funded schemes will have higher Affordable Rents than nil-grant schemes.

4.3 **Impact Assessments** – Not applicable.

5. **Budgetary Framework**

5.1 There are no direct budget implications for the council arising from this report. However there are two indirect consequences.

5.2 The first consequence is that the council recently agreed to investigate opportunities for building council housing. One option for doing this is to register with the HCA and apply for grant funding. Clearly if the council decides that it will not accept the HCA position on Affordable Rents then no such grant will be available in the district and this option will not be available.

5.3 The second consequence is that, as indicated above, the HCA will accept lower rents if the council itself is willing to put in grant funding in order to reduce the rents. Accepting the HCA position could therefore at some stage mean that the council would be asked to provide capital grants in order to keep housing association rent levels down. It is recommended that these be considered on a case-by-case basis.

6. **Risks**

6.1 Having a policy of Affordable Rents at lower than 80% does not allow housing associations to maximise the rental income available to service borrowing and could therefore deter housing associations from taking up development opportunities in the district. This has not presented a problem so far and four of the five preferred partners have schemes on site in the district at present and in fact another housing association has recently asked if it can join the partnership. It should be borne in mind that this could also limit the capacity of the council to fund new house-building as the proposals to set up a Council Housing Company take shape. This will be kept under review and, if problems begin to arise, a further review of the policy will be brought to the Executive.

6.2 The other potential risk of having this policy is that developers will find that they are unable to sell the affordable housing element of a site at a profit. While we have received some adverse comments from developers about the policy there has not as yet been any suggestion that it is making schemes unviable. If such a case was made then a system is already in place for having viability appraisals independently assessed and if it were shown that the policy was making a scheme unviable then it would be necessary to adjust the policy on that particular site in order to comply with the National Planning Policy Framework. This would then be reported to Planning Committee. However if this situation began to occur regularly on several sites then a further review would be brought to Executive to consider adjusting the policy.

6.4 The risk of having an exception for HCA-funded sites is that developers could argue that this "two-tier" system is unfair and that Affordable Rent housing being built under planning obligations should also be permitted at the 80% level on the basis that they also provide "subsidy" in the form of profit foregone. The counter-argument to this is that failure to agree an exception for HCA-funded

schemes risks the affordable housing not being delivered at all and a similar safety-net applies to developer-provided housing through the viability route.

7. Alternative Option(s) considered

- 7.1 The option of having no Affordable Rented housing on new schemes in the district, or permitting Affordable Rent but only at social rent levels, has been considered. However for grant-funded schemes this would mean that the schemes would not be delivered. Furthermore on sites where affordable housing is being provided under planning obligations the Strategic Housing Market Assessment 2013 shows that 24% of new affordable housing need comes from households who can afford more than a social rent. Pursuing this option would therefore be contrary to the National Planning Policy Framework which requires the council to plan to meet objectively assessed needs.
- 7.2 The options of not having any restrictions on Affordable Rent and therefore allowing these to be set at 80% of open market rent in every case has been considered. However as indicated earlier the concerns that caused the council to introduce restrictions on Affordable Rents were that market rents (and by implication Affordable Rents) were very high in the area relative to lower incomes. These concerns remain valid and further information on this is provided in section 8 below. This option is therefore not recommended.
- 7.3 The option of setting Affordable Rent at a level other than the mid-point has been considered. However the thinking behind the mid-point policy is that the relevant Housing Strategy objectives are considered equally important by the council therefore the mid-point between social rent and the maximum permissible represents an appropriate compromise to balance these two priorities. This option is therefore not recommended.
- 7.4 As regards the exception for HCA-funded sites the option of not allowing an exception has been considered but, as indicated earlier, this would lose scarce government grant funding for the district as the HCA would cease to fund new affordable housing schemes. This option is therefore not recommended.

8. Background

Policy

- 8.1 In 2011 the coalition government introduced the new Affordable Homes Programme 2011-15 (AHP). A key new dimension of this was that, given the policy imperative of cutting the deficit, some of the funding for new affordable homes would come from permitting Registered Providers (housing associations) to charge higher rents. These were called Affordable Rents and the level could be set at up to 80% of the local market rent, inclusive of service charges.
- 8.2 In 2012 the council set a policy in the Warwickshire Tenancy Strategy that we would restrict Affordable Rents to no more than 60% of market rent but it became apparent that this would need to be reconsidered because in some cases the 60% figure was actually below social rents so that if applied rigorously this would defeat the objective of the AHP and potentially prevent new affordable housing from being built.
- 8.3 The policy was changed through the Housing Strategy by adopting the compromise position (the "mid-point" policy) that from 1st January 2014 we

would seek to limit Affordable Rents to the mid-point between social rent and the 80% maximum permissible.

8.4 Over the course of 2014 the application of the policy has resulted in average Affordable Rent levels on new schemes being calculated at between 70% and 75%.

8.5 In a further development the HCA prospectus for the next round of the AHP to cover the period for 2015 to 2018 stated:

"It is expected that homes for rent which are funded with capital grant funding from the 2015-2018 Affordable Homes Programme will be let at Affordable Rent. While bids which include Affordable Rent at less than 80% of local market rent will be considered, in very specific circumstances, such as where an Affordable Rent at 80% of local market rent would exceed the Local Housing Allowance, we will generally expect providers to charge rents of up to 80% of market rents to maximize financial capacity."

Rents and incomes

8.6 In the second half of 2013 the council participated in commissioning a Strategic Housing Market Assessment (SHMA) across the Coventry and Warwickshire sub-region. This showed that:

- Entry level (i.e. the cheapest 25%) private sector rents in the district were the highest in the sub-region for every property size;
- Average earnings in the Warwick district were also the highest in the region. (However much of this is attributable to those paid more than £100,000 per annum, which accounts for over 10% of households, again the highest in the region, and clearly not the people for whom affordable housing is a need);
- The percentage of households unable to afford market housing without subsidy in Warwick was second highest after Coventry, clearly demonstrating that the higher rents at the bottom end of the market in the district are not compensated for by higher levels of income for those in housing need.

8.7 In the past year private rents have shown no sign of reducing while the national guideline rent increase for 2014/15 for social rents from the HCA was 3.7% and the council increased its rents by 3.7% in April 2014. Up to date income data is not available but there is no evidence to suggest that pay has been rising disproportionately in the district.

8.8 The following table summarises the current position for Warwick district in terms of private, social and affordable rents and the Local Housing Allowance (LHA). The latter is the maximum level of private sector rent that can be paid for people entitled to full Housing Benefit. All rents are quoted in £ per week.

Property type	Housing Association Social rent 2013/14	Affordable Rent 2013/14	Median private rent 2013/14	80% of private rent	LHA
1 bed	93.25	108.40	137	110	117.91
2 bed	105.84	121.69	173	138	148.87
3 bed	113.86	137.89	213	170	180.00
4 bed	131.44	None	298	238	237.02

- 8.9 The Affordable Rents quoted above are the average actual rents charged in 2013/14 by housing associations on Affordable Rented properties as recorded by the HCA. This includes not just new-build properties where the “mid-point” policy applies but also older properties that have been converted to Affordable Rents upon change of tenant, over which the council has no control.
- 8.10 Using the SHMA income-profile for the district and assuming that a household should spend no more than 25% of its income on rent, the following table shows the approximate percentage of households earning less than the amount required to afford each property type.

Property type	80% of private rent	Income required to afford	Approximate percentage of households in WDC earning less than this
1 bed	110	22,880	28
2 bed	138	28,704	39
3 bed	170	35,360	49
4 bed	238	49,504	65

- 8.11 It seems very unlikely that the situation in terms of rents and incomes ratios has improved significantly since the policy was introduced last year. It is clear that Affordable Rents based on 80% of median private sector rents would be unaffordable to a substantial proportion of the local populace without some form of subsidy. It therefore supports the conclusion that there is a continuing need to restrict Affordable Rents to below the 80% maximum.
- 8.12 As the strategic housing objectives remain the same, and of equal importance, the “mid-point” policy appears to still be the appropriate target for Affordable Rents.

Consultation responses

- 8.13 All of the council’s preferred development partner housing associations were asked their views on the policy and two responded.
- 8.14 The full text of the responses is in appendix one but in summary both would prefer to have the flexibility to charge Affordable Rents at up to 80% on all schemes but will work with us in accordance with our policy if we do continue to restrict the rent levels. However both referred to the issue of grant-funded sites and the need to be allowed to charge 80% on such sites.
- 8.15 Some other procedural issues were raised which will be the subject of further discussion with the relevant provider.

Appendix One – Consultation responses

Housing Association response 1

1. We would prefer to have the flexibility to charge up to 80% of market rents as this is in line with our housing “offer”, which is predicated on a range of products designed to meet varying housing needs and circumstances.
2. However, if WDC is to continue with a policy of requiring less than 80% to be charged (which I now understand will apply only to non grant funded S106 schemes in the future) then this policy needs to be well publicised, clear and transparent. The problem we have had recently is that, whilst we have understood your general approach to rent setting due to the various meetings and discussions we have had, not all developers have been aware and this has created confusion and a lack of consistency in the approach to development opportunities in Warwick. Your policy, when agreed following consultation, therefore needs to be formally established and adequately publicised.
3. You will also need to make sure that your planning colleagues are up to speed and that S106 agreements being negotiated reflect the existing housing policies. I am aware that there are currently schemes for which the S106 agreement defines an affordable rent as anything up to 80% market rent to which you are applying a policy of 70% or thereabouts.
4. We will of course work within your policy framework as far as we are able to which, in this case (as I understand it), is that affordable rents should be set at a level that is the mid-point between the social rent and 80% of the market rent for any particular property. What we cannot agree to is that the primary data used for this calculation is established by a third party, in this case WDC. There are two reasons for this. The first is that it is an established principle accepted by the HCA that RPs set their own rents in accordance with the published guidance and subject to audit in the time honoured fashion. We generally use independent valuers, usually RICS qualified but not always, to establish both social rents and affordable rents and as far as I am aware we will continue to do this and apply the principle of your policy at any given time to the rents generated. The second reason for not being happy with your approach to date is that you are calculating a percentage of market rent using your data which if applied to our data will not necessarily give the “correct” outcome. We would therefore, if your proposed policy is confirmed, wish to apply principles to the rents generated using our own primary data.
5. As stated at the beginning, we would prefer not to have our ability to set rents limited by others but given that all providers would be on a level playing field, the policy would be limited to 106 schemes and the above comments are taken into account then we could work within this policy framework.

Housing Association response 2

On the section 106 we would prefer to see an affordable rent across the board. This is to stop neighbours having different rents, where one is on a social rent and another is on an affordable. In our view it would make sense to have all the residents on the same rent agreed with you and across the board.

On our own schemes it will be very hard to argue with the HCA if they are not at 80%. No doubt this discussion will go on and I defer to your meetings and instructions from the HCA.