

Proposed 2022/23 programme of Section 106 Commuted Sums to support delivery of affordable homes in North Norfolk

- Summary:** Cabinet in February 2021 agreed to the establishment of an annual budget in the Capital Programme to provide grants, using section 106 capital receipts held by the council, to support Registered Providers to deliver new affordable homes. A budget of £500k in 2021/22 and £300k per annum 2022/23 - 2024/25 was established. No grants have been made in 2021/22 so this budget can be rolled forward. This report now details the programme of grants for 2022/23 and seeks support to provide grant to four affordable housing schemes totalling £700k, which will provide 130+ affordable homes (an average of under £5,400 grant funding per home).
- Options considered:** The section 106 monies held can only be used to fund delivery of affordable homes. The option of retaining the monies for alternative future affordable housing schemes is rejected as this runs the risk of some of the current proposed affordable housing schemes not going ahead. Additionally, as some section 106 receipts have a time limit on their use, not using them risks needing to repay them.
- Conclusions:** The proposals in this report help deliver the Corporate Plan objective “Local Homes for Local Need” and will help deliver good quality, energy efficient, affordable homes.
- Recommendations:** **That Cabinet support the granting of £700k of existing s106 monies in 2022/23 to support Registered Providers deliver four new affordable housing schemes as detailed in the report.**
- Reasons for Recommendations:** To provide support to £700k grant funding to help deliver affordable homes

LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW

(Papers relied on to write the report, which do not contain exempt information and which are not published elsewhere)

<i>Use of s106 Commuted Sums to support delivery of affordable homes in North Norfolk - Cabinet 23/2/21</i>

Cabinet Member(s) Cllr Wendy Fredericks
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Ward(s) affected: Stalham, Priory, Bacton
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1. Background - Section 106 commuted sums held by North Norfolk District Council

- 1.1 The council seeks developers to provide, as part of a market housing development, affordable homes on-site wherever possible. This ensures that affordable homes are delivered, integrated into market developments and that they are made available to Registered Providers at a price that is viable as affordable homes. However, occasionally there are reasons why on-site provision would not be appropriate and instead developers make a financial contribution, a s106 contribution or 'commuted sum', in lieu of the on-site provision of affordable homes. The other circumstance in which s106 receipt may be received is via uplift clauses. This is for large scale developments where delivery of on-site affordable homes is demonstrated not to be viable at the time of Planning, but a review mechanism is included in the section 106 agreement. This review mechanism allows us to reassess viability based on actual costs and sales values and, where a profit above that expected in the original viability is achieved, to receive some of this 'excess' profit in s106 commuted sums.
- 1.2 The level of s106 commuted sums currently held by NNDC are £2,348,306. Details of s106 monies are set out in Appendix A to this report. These receipts were received in lieu of on-site provision of affordable housing and can only be used to help deliver affordable housing. In some cases the s106 includes a requirement for the receipts to be spent within 10 years or they should be returned to the developer. This includes some receipts from 2014, so plans to use s106 receipts to help deliver new affordable homes are needed. A budget of £500k for this activity was established in the 2021/22 capital programme but no grants were given in 2021/22.
- 1.3 This reports now proposes to roll forward the 2021/22 budget of £500k and sets out specific recommendations to use £700k of the s106 receipts in 2022/23 as detailed below (and summarised in the table at paragraph 11 below).
- 1.4 In addition to the allocations recommended in this report, there is a long standing commitment to use the £46k of s106 receipts generated from a development in Salthouse to support an Exception scheme due to be delivered by Broadland in Salthouse. That 'in principle' allocation, together with the £700k recommended in this report, will leave £1,602,306 of s106 receipts to be used in future years.

2. Grant Support for Affordable Housing

- 2.1 Delivering affordable homes viably is always a challenge for Registered Providers (RP), arguably that position has worsened in the last two years with rapidly increasing material and labour costs. The schemes outlined in this report are largely funded by borrowing by the RP against the future rental income from properties. Additionally, all of the schemes have been awarded Homes England grant funding. Homes England grant rates vary between schemes but typically general needs rented homes receive grant rates of around £45-60k per home, extra care attracts higher grant rates (around £70k per home), and whilst shared ownership homes attract a lower grant rate (around £45k per home) this is relatively generous (after taking into account capital receipts from sales of shares). Borrowing and grant combined are very

unlikely to cover the build costs of units and other forms of subsidy are required, RPs generally subsidise new homes from capital receipts (from sales of other assets or revenue surpluses from other homes). However, only so much 'internal' subsidy is possible and abnormal costs can threaten viability and mean developments may not go ahead.

- 2.2 North Norfolk is an especially challenging area to deliver affordable homes. Costs in the district are high, due to the rural location and a lack of developers / builders. Some additional costs are often associated with developing smaller rural sites, such as additional infrastructure, and economies of scale are not possible on these sites. There is an additional challenge in the East of the district where costs are no lower but sales values (in the case of shared ownership homes) are relatively low and so are market rents (which are used as the benchmark to set affordable rents against). In all parts of the district the Local Housing Allowance levels (which are set by government as the maximum level to which housing benefit can be paid and which we use as the maximum rent that can be charged by an RP) are low.
- 2.3 The schemes below all require relatively small amounts of additional grant funding to ensure they are delivered and to give RPs confidence to continue to develop in the challenging environment in North Norfolk.

Extra Care Housing – Stalham

- 2.4 The Council recognises the importance of appropriate quality homes for older residents. The Corporate Plan includes an objective to support delivery of 500 units of Housing-with-Care / Extra Care Housing. Norfolk County Council also support the provision of Extra Care and have developed a Living Well strategy and a capital budget of £30m to support delivery of new Extra Care Housing (or "Independent Living") to secure nomination rights to 1,000 affordable rented units by 2028.
- 2.5 Extra Care Housing is an expensive product to develop as schemes involve many additional features (and costs); both within individual homes to ensure lifetime adaptability, and also more communal areas/services to provide quality of life for residents. The care provided on site is paid for separately – either via Social Services or from fee paying customers. However, the other housing features in an extra care scheme must also be funded. If the higher costs of extra care housing were paid for by residents (through rents and service charges) the schemes would not be affordable. Therefore high levels of initial grant funding are needed to ensure homes are affordable to future residents.
- 2.6 The recent Housing21 extra care scheme at Fakenham relied on grant funding from Homes England, Norfolk County and NNDC (we have contributed £215k plus a further £90k for dementia enhancements). The Meadow Walk scheme in Fakenham delivered 66 flats, 30 Affordable Rent and 36 shared ownership.
- 2.7 In partnership with the same developer as Fakenham, Housing21 are bringing forward an extra care scheme in Stalham. The scheme, recently approved at Development Committee, is for 61 flats – 43 x 1-bed and 18 x 2-bed. All the flats will be rented and will be let at Social Rent (lower than Affordable Rent and the most affordable). The scheme should be on site later in 2022 and complete in 2023
- 2.8 It is recommended that £300k of s106 funds be granted to Housing21 in 2022/23 to deliver this 100% affordable development (grant of £4,918 per home)

General Needs Affordable Homes in Stalham

- 2.9 Alongside the Extra Care scheme in Stalham, the remainder of the site will be developed for general needs affordable homes for Flagship. This will provide a mix of 40 affordable homes – 28 for Affordable Rent and 12 Shared Ownership. The development provides a range of property sizes which reflect local need (to rent: 9 x 1-bed, 11 x 2-bed, 4 x 3-bed, 4 x 4-bed; and shared ownership: 4 x 2-bed, 8 x 3-bed).
- 2.10 In particular the provision of 4-bed homes on this development is welcomed. These homes are in high need and very limited supply, they are difficult for providers to develop viably due to high build costs versus relatively low rents. There are also some cost challenges with this development including significant infrastructure requirements, including a lengthy access road to homes at the rear of the site. This development should also be on site in 2022 and complete in 2023.
- 2.11 It is recommended that £100k of s106 funds be granted to Flagship in 2022/23 to deliver this 100% affordable development (grant of £2,500 per home)

Exception Housing Scheme in Warham

- 2.12 This Exception Housing Scheme, on land east of Stiffkey Road in Warham, was originally planned as a Homes for Wells development. The scheme already has Planning Permission and is for 12 Affordable Rent homes. Homes for Wells had already had NNDC funding agreed to help deliver this scheme (a loan of £25k for pre-development costs and a further grant of £75k for development costs had been agreed – both from the Community Housing Fund). Flagship has now taken on this development from Homes for Wells who were unable to progress the scheme. Homes for Wells have repaid the pre-development loan now sale of the site to Flagship has taken place
- 2.13 The scheme will still use Homes for Wells local allocations policy (as this was part of the Planning Permission) but as the development is no longer community-led, Community Housing Funding is not appropriate. The recommended £100k of s106 grant is £8,333 per home, this is a higher grant level than other schemes but reflects the higher costs of this scheme associated with use of modular construction. Whilst there are no s106 commuted sums arising from developments in Warham, there are older s106 monies from Langham or receipts from a recent shared equity sale in Wells that could now be used on this scheme.
- 2.14 It is recommended that £100k of s106 funds be granted to Flagship in 2022/23 to deliver this 100% affordable development (grant of £8,333 per home)

Exceptions Housing Scheme in Walcott

- 2.15 This Exception Housing Scheme, on Ostend Road, Walcott, has Planning Permission for 16 affordable rent homes (plus 2 market homes). The homes proposed will be very energy efficient – built using Passivhaus principles. Originally the scheme was to be developed by a small independent builder and purchased by Flagship, However, Flagship will now deliver the scheme themselves and plan to submit an application to vary the scheme, taking away the market units to deliver a 100% affordable scheme and possibly increasing the number of homes from 18 to 20-23.

- 2.16 The high energy standards of the proposed homes means their cost is higher than standard homes and means they are unviable for Flagship without extra support. S106 monies can be used to provide top-up funding to Flagship to ensure to secure the affordable housing units. The level of s106 top up grant requested of £200k was £12,500 per home, a higher grant level reflecting the higher costs of this scheme associated with Passivhaus standards. However, if the number of units are increased to 23, this gives a unit grant rate of £8,696.
- 2.17 It is recommended that £200k of s106 funds be granted to Flagship in 2022/23 to deliver this 100% affordable development (grant of £12,500 – 8,696 per home, depending on final numbers)

3. Corporate Plan Objectives

The proposals in this report will help to ensure delivery of around 140 affordable homes which help to deliver the Corporate Plan objective “Local Homes for Local Need”. Specifically, action 1.2.2a (under the theme “Increasing the Supply of Housing – Supporting Delivery by Others) is to “use s106 commuted sums to provide top-up funding for affordable housing for schemes which would otherwise not be viable”.

4. Medium Term Financial Strategy

The s106 monies are held by NNDC in lieu of on-site provision of affordable homes and are ‘earmarked’ or ‘ring-fenced’ funds that can only be used for this purpose – not to support any other NNDC activity. Additionally, some of the receipts have time limits on when they must be used by from the date of their receipt, and failure to use them in-time could mean they must be returned to the developer. Therefore, plans to spend these receipts to deliver affordable homes represents effective financial planning.

5. Financial and Resource Implications

A budget of £500k to support enabling activity, financed by s106 monies, was included in the 2021/22 Capital Programme. This report recommends that this is rolled forward and added to the £300k in the 2022/23 programme and used to provide £700k grant to Registered Providers in 2022/23 – as set out in paragraph 11. Conclusion and Recommendations below

6. Legal Implications

Section 106 of the Town and Country Planning Act 1990 (as amended), allows the Planning Authority to apply obligations as a mechanism to make a development proposal acceptable in planning terms. Securing affordable housing is one of those obligations and can be in the form of commuted sums in lieu of on-site provision of affordable homes. These s106 commuted sums can then only be used for the purpose for which they were provided. In some cases the s106 monies have conditions relating to when and where the funds must be used. Typically the wording requires that the monies are used within 10 years of receipt and best endeavours to use in the arising parish, then the surrounding areas, then anywhere in NNDC.

7. Risks

The key risks and mitigations associated with this report are:

- The specified developments do not go ahead - mitigated by using funding at key stages in the development process, i.e. post Planning permission being granted
- The use of the s106 monies leaves limited funding to support future affordable housing delivery – mitigated as the recommendations in this report total £700k, leaving £1,602,306 of existing s106 monies available.
- The risk of not planning appropriate use of the s106 monies is that no use is identified within the timescales set in the s106 agreement and the money has to be repaid.

8. Sustainability

This report supports the delivery of affordable homes by Registered Providers. Homes developed by Registered Providers generally exceed Building Regulations standards and the standard of most market homes in terms of energy efficiency and space standards. Additionally, in the case of some of the specified developments, energy standards will be higher with the use of modular construction or Passivhaus principles. Ensuring that homes have affordable rents and low energy costs helps Registered Providers ensure the sustainability of tenancies.

9. Equality and Diversity

No direct implications in this report

10. Section 17 Crime and Disorder considerations

No direct implications in this report

11. Conclusion and Recommendations

The proposals in this report help deliver the Corporate Plan objective “Local Homes for Local Need”. The report recommends the use of £700k of the existing s106 monies held specifically to deliver affordable homes. In total the s106 enabling grant provision being recommended is as follows:

Scheme	Year	2022/23 (£,000s)
Extra Care Stalham		300
General needs Stalham		100
Warham		100
Walcott		200
TOTAL		700

Appendix A

Source of Section 106 Affordable Housing funds held by NNDC

Scheme	Date	£
Wood Farm Barns, Helhoughton	2014	£15,000
Former Langham Glass site, Langham	2014	£500,000
Jonas Farm Barns, Roughton	2016	£69,250
McCarthy & Stone scheme, Holt Road, Cromer	2016	£3,801
Swan Homes - Pyes Close, Blakeney	2017-18	£150,000
Bard Hill Barns, Salthouse*	2018	£46,000
Norwich Road, North Walsham (uplift clause)	2019	£689,560
NNDC receipt from sale of shared equity home, Wells	2020	£91,800
Three sites in Holt (uplift clause)	2021	£721,645
TOTAL		£2,348,306.

*In principal agreement was previously given to use these s106 monies to support a Broadland Housing exception scheme in Salthouse.