

## Use of Section106 Commuted Sums to support delivery of affordable homes in North Norfolk

- Summary: This report seeks support to allocate £900k of existing Section 106 commuted sums to provide enabling grant to Registered Providers to deliver new affordable homes in North Norfolk. The funding would help deliver five housing schemes providing approximately 181 affordable homes (an average of below £5k grant funding per home). The funding would be required between 2021/22 and 2023/24 and provision for this can be built into future capital programmes (£500k has already been included in the 2021/22 capital programme).
- Options considered: The Section106 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 not using the receipts effectively and meaning that some of the monies may need to be repaid.
- Conclusions: The proposals in this report help deliver the Corporate Plan objective “Local Homes for Local Need” and will help deliver 181 good quality, energy efficient, affordable homes.
- Recommendations: **That Cabinet allocate £900k of the existing s106 monies held to support Registered Provider deliver new affordable housing schemes. Provision to be made in the capital programme for five specific housing schemes within the S106 Enabling Budget with £450k allocated in 2021/22, £275k in 2022/23 and £175k in 2023/24.**
- Reasons for Recommendations: To provide authority for expenditure over £100,000..

Cabinet Member(s) Cllr Greg Hayman	Ward(s) affected: North Walsham West, Stalham, Priory, Bacton
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## **1. 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.
- 1.2 The level of s106 commuted sums currently held by NNDC are £1,565,411. However, it should also be noted that a further £721,645 s106 commuted sums are pending, subject to an independent viability review and agreement with the developer. This would bring the total of s106 receipts to over £2.2m. Details of s106 monies are set out in Appendix B to this report. These receipts were received in lieu of on-site provision of affordable housing and can only be used to help Registered Providers deliver affordable housing. A budget of £500k has been established in the 2021/22 capital programme for s106 enabling projects.
- 1.3 This reports sets out specific recommendations for use of some of the s106 receipts and recommends that these projects are included in the capital programme for 2021/22 – 2023/24 as detailed (and summarised in paragraph 16 below). The recommended projects are summarised below, with more details set out in Appendix A (including some commercially sensitive information, therefore the appendix is Exempt).

## **2. Extra Care Housing in North Walsham**

- 2.1 Of the total s106 receipts, £689,560 are from a recent development in North Walsham (as a result of an uplift clause included in the s106 which meant that should profits rise above a certain level the council would receive s106 monies). Like most s106 monies, these receipts have a requirement that best endeavours are made to use them in the arising parish, then the surrounding areas, then anywhere in NNDC.
- 2.2 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.
- 2.3 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, service charges or the price of shared ownership) the schemes would not be affordable. Therefore high levels of initial grant funding are needed to ensure homes are affordable to future residents.

- 2.4 The Housing21 extra care scheme at Fakenham has relied on grant funding from Homes England, Norfolk County and NNDC (we have agreed to contribute £215k plus a further £90k for dementia enhancements – these have already been budgeted for in our capital programme). The Meadow Walk scheme in Fakenham will deliver 66 flats, 30 Affordable Rent and 36 shared ownership, all of which will be advertised through Your Choice Your Home.
- 2.5 Housing21 have now agreed initial approval for the development of an extra care scheme in North Walsham. The scheme proposed by Housing21 is for between 73 and 76 flats (final design to be agreed). 80% of the units will be 1-bed units and the remainder will be 2-bed units, this again reflects need. The scheme will be designed to Housing 21's Design Brief and will be built to their specification which includes enhanced low carbon environmental performance. All the flats will be for Social Rent (lower than Affordable Rent and the most affordable) which is the new Housing 21 rents charging policy.
- 2.6 In addition to our knowledge of the need for extra care housing across the district (evidence provided by Norfolk County Council identifies an unmet need for extra care housing of 486 homes, of which 194 should be for rent), our housing list shows a need for affordable housing for older people in North Walsham. NNDC's housing list shows there are currently 286 households aged over 60 who are interested in living in North Walsham.
- 2.7 Section 106 commuted sums arising from development in North Walsham could now be used on this scheme. Further details of this proposals are set out in Appendix A, but in summary the recommendation is for: **£350k of s106 funds to be made available deliver c.75 social rented extra care homes, 50% funding required in 2022/23, and 50% in 2023/24.**

### **3. Potential Extra Care Housing in Stalham**

- 3.1 This potential development on a site in Stalham is at a much earlier stage than the North Walsham proposal. The total area of the site is 3 acres and it has the potential to provide an extra care housing scheme of circa 60 units, plus possible wider options including relocation of medical practice(s), providing space for other community facilities or development of other general need affordable homes. The site is in three separate ownerships; including one section owned by Norfolk Constabulary. Whilst assembling all three parcels would be advantageous, development of extra care and other affordable housing could work with two of the three parcels. The police land is 0.5 acres and is currently being marketed by NPS, with a closing date for bids 5<sup>th</sup> March 2021.
- 3.2 We have considered taking development of the site forward as an NNDC led project and a One Public Estate funded feasibility study was undertaken on the site, however this approach would involve significant funding and risk to the Council. We have now held initial discussions with an experienced extra care developer, who is interested in developing the site for affordable extra care/potential other uses.
- 3.3 The proposal is that NNDC secure the police land using s106 receipts. This would be legitimate use of s106 monies, provided the land were used for affordable housing. If an affordable housing scheme goes ahead on the site, the land would be NNDC's contribution to enabling this to happen. If for any

reason the site were not developed for affordable housing NNDC should be able to sell our land, or use it for other purposes. Whilst there are no s106 commuted sums arising from developments in or close to Stalham, there are older s106 monies that could now be used on this scheme.

- 3.4 Further details of this proposals are set out in Appendix A, but in summary the recommendation is for: **Up to £200k of s106 funds be allocated for land assembly to help enable development of c.60 affordable extra care homes, funding required in 2021/22.**

#### **4. Flagship Affordable Homes in Catfield**

- 4.1 Flagship are proposing to develop 18 homes (10 Affordable Rent and 8 Shared Ownership) on the allocated site in Catfield, which they hope to have on site by November 2021. The viability of the development is tight and we recently refused a request to allow 100% staircasing of the shared ownership homes on this site, so they cannot be sold outright and 'lost' as affordable housing. This is likely to slightly reduce the potential sale price of the shared ownership homes and therefore make viability of the scheme more challenging. Viability is further challenged due to the requirement to provide an electricity sub-station for the development at an estimate costs of £70k.

- 4.2 Flagship have requested £100k of enabling grant to secure this development – which equates to £5,556 per affordable home. If the site were not developed by a Registered Provider, but was developed as a normal market led development, the level of affordable homes provided on the site would be a maximum of 50% / 9 homes. Securing the site as a Flagship 100% affordable development will effectively deliver 9 'additional' affordable homes. Whilst there are no s106 commuted sums arising from developments in or close to Catfield, there are older s106 monies that could now be used on this scheme.

- 4.3 Further details of this proposals are set out in Appendix A, but in summary the recommendation is for: **£100k of s106 funds be allocated for enabling grant to help deliver a development of 18 affordable homes, funding required in 2022/23.**

#### **5. Flagship Exception Housing Scheme in Warham**

- 5.1 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 will repay the pre-development loan once sale of the site to Flagship has taken place

- 5.2 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. Therefore Flagship are requesting £100k of enabling grant to help deliver this scheme, which 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.

- 5.3 Further details of this proposals are set out in Appendix A, but in summary the recommendation is for: **£100k of s106 funds be allocated for enabling grant to help deliver a development of 12 affordable homes, funding required in 2021/22.**

## **6. Flagship Exceptions Housing Scheme in Walcott**

- 6.1 This is a potential Exception Housing Scheme, on Ostend Road, Walcott. The scheme is a development of 18 homes of which 16 will be affordable rent and two will be market homes. The homes are proposed to be very energy efficient – built using Passivhaus principles and are to be developed by a small independent builder. Flagship has in principle agreed to buy the affordable homes from the builder, however 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.
- 6.2 A planning application has been submitted for the site and as a result NNDC have commissioned an independent viability assessment. This assessment has confirmed that there is a viability gap in this scheme if standard prices were paid for the homes by Flagship. In addition to bidding for higher rates of Homes England grant, Flagship have also requested indicative figure of £150k s106 enabling grant to help deliver this scheme, this equates to £9,375 per home. This is a higher grant level than other schemes but reflects the higher costs of this scheme associated with Passivhaus standards. Whilst there are no s106 commuted sums arising from developments in Walcott, there are older s106 monies that could now be used on this scheme.
- 6.3 Some further information on this proposal are set out in Appendix A, but in summary the recommendation is for: £150k of s106 funds be allocated for enabling grant to help deliver a development of 16 affordable homes, funding required in 2021/22.

## **7. Corporate Plan Objectives**

The proposals in this report will help to ensure delivery of around 181 affordable homes which help to deliver the Corporate Plan objective “Local Homes for Local Need”.

The objective 1.6.1 states: As the local demographic continues to age, to make sure that people can obtain the housing and support that they need throughout their lives we will work with partners to deliver 500 units of Housing-with-Care/ExtraCare. The Council will seek to be an investment partner, where appropriate, to speed delivery and secure financial sustainability. The proposals in paragraphs 2 and 3 of this report set out how s106 monies could be used to support the delivery of affordable extra care homes.

The objective 1.5.1 commits the council to Investigating ways to support and assist affordable housing providers. Use of s106 monies, which are held for this purpose, is an effective way of doing this.

## **8. 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, considering plans to spend these receipts to deliver affordable homes represents effective financial planning.

## **9. Financial and Resource Implications**

A provisional budget of £500k to support enabling activity, financed by s106 monies, has already been included in the 2021/22 Capital Programme. This report recommends that this amount be increased to £900k over a three year period and allocated to specific projects as set out in paragraph 16. Conclusion and Recommendations below

## **10. 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. Any proposed use of s106 will need to check these conditions are met.

## **11. 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, such as start on site / completion
- In the case of funding land purchase (paragraph 3) the risk that development does not go ahead - mitigated by potential to sell land / use for alternative affordable housing scheme
- The use of the s106 monies leaves limited funding to support future affordable housing delivery – mitigated as the recommendations in this report total £900k, which leaves £665k of existing s106 monies available plus a further £723k due to be received shortly.
- 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.

## 12. Sustainability

This report supports the delivery of affordable homes by Registered Providers. Homes developed by Registered Providers will 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.

## 13. Equality and Diversity

No direct implications in this report

## 14. Section 17 Crime and Disorder considerations

No direct implications in this report

## 15. 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 £900k of the £1,565,411 (with the likelihood of a further £723k to be received shortly) existing s106 monies held specifically to deliver affordable homes. In total the s106 enabling grant provision being recommended to go into the capital programme is as follows:

Scheme	Year	2021/22 (£,000s)	2022/23 (£,000s)	2023/24 (£,000s)
Extra Care North Walsham			175	175
Extra Care Stalham		200		
Catfield			100	
Warham		100		
Walcott		150		
<b>TOTAL</b>		<b>450</b>	<b>275</b>	<b>175</b>