

CABINET (HOUSING) COMMITTEE

18 SEPTEMBER 2013

NEW HOMES DELIVERY – HOME LOSS AND DISTURBANCE POLICY

REPORT OF HEAD OF NEW HOMES DELIVERY

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RECENT REFERENCES:

CAB2405 (HD) – Update on Development Programme – 22 October 2012

CAB2486(HD) – Update on Development Programme – 22 May 2013

EXECUTIVE SUMMARY:

This report sets out the proposed compensation package to tenants affected by redevelopment proposals contained within the Council House New Build Programme.

RECOMMENDATIONS:

- 1     That a Council tenant who is required to move as a direct consequence of redevelopment proposals be offered:-
  - (i)     The statutory Home Loss payment (or an equivalent amount where there is no statutory entitlement, at the discretion of the Assistant Director (Chief Housing Officer));
  - (ii)    a Disturbance payment based on their actual removal expenses;

- (iii) a Band 2 priority on the Hampshire Home Choice scheme to secure alternative accommodation either for a temporary or permanent period whilst the development takes place;
- (iv) an offer of a new property in the development of an appropriate size for the household, if such a property is available;
- (v) the opportunity for independent advice as set out in the report.

2 That the Council commissions independent support from an external agency on a “call off” basis to provide appropriate advice to tenants as and when required.

CABINET (HOUSING) COMMITTEE18 SEPTEMBER 2013NEW HOMES DELIVERY – HOME LOSS AND DISTURBANCE POLICYREPORT OF HEAD OF NEW HOMES DELIVERYDETAIL:1 Introduction

- 1.1 As a result of the financial freedoms granted by housing finance reforms, the Council has taken the opportunity of establishing a programme for the provision of new council housing. The 2012/13 HRA Business Plan included a provision for £42m of investment in new housing over the next 10 years. The updated HRA Business Plan approved by Cabinet in February 2013 increased the investment provision during this period for new Council housing to £50m. The revised amount reflected updated projections including the unexpected increase in receipts from Right to Buy sales where a proportion of the proceeds have to be used to fund new affordable housing.
- 1.2 The Council approved the original Council House development programme in June 2012. Report PER216 set out the three year programme but noted that other opportunities would come forward and some of the schemes listed may not proceed. In the updated 3 year development programme agreed by Cabinet in May 2013 (CAB2486 (HD) refers) there are no proposals that require the demolition of properties and therefore have a direct impact on existing tenants. However there may be occasions in the future where opportunities arise that would only be able to proceed if one or more tenants were required to vacate an existing property.
- 1.3 At a recent meeting of Council, members asked for clarification on how the Council would support tenants directly affected by future redevelopment and regeneration schemes. This report seeks to clarify the financial assistance that would be provided in such cases as well as the additional priority for alternative housing that would be afforded, as well as access to independent advice. Taking possession of an existing tenanted property is a discretionary ground for possession under the Housing Act 1985. Tenants would be entitled to statutory and discretionary compensation payments if such possession is obtained through the courts. However, in such cases, every effort would be made to obtain possession through negotiation with tenants. This report recommends that sums equivalent to the statutory payments, in addition to disturbance payments to cover moving expenses and other support should be made to tenants who agree to relocate without the need for formal action to gain possession.
- 1.4 Amendments made in January 2005 to the Housing Act 2004 incorporated new legislation relating to the Right to Buy provisions. This enables landlords

to serve notice on a tenant of the Council's intention to demolish their home for the purposes of regeneration and redevelopment, which then suspends the Right to Buy for any tenants served with such notices and (if a final Demolition Notice is served) provides for compensation to be paid to the applicant tenant to cover his/her legal and other professional costs.

- 1.5 Separately, in certain circumstances a tenant who is required to give up possession of his/her property is entitled to a fixed Home Loss Payment. These include where they are required to give up possession pursuant to Ground 10 of Schedule 1 to the Housing Act 1985 (as amended) (redevelopment).
- 1.6 Any future development scheme that may require the demolition of an existing tenanted property will ensure that the relevant notices are served and procedures complied with. Any statutory Home Loss and Disturbance payments must also be paid, and consideration should also be given to making discretionary payments in appropriate circumstances.
- 1.7 It is sensible and reasonable for the Council to identify the policy basis on which it will compensate any tenant who is subject to such a notice in the future. This will enable officers to make tenants aware of the Council's policy and to provide reassurance as to the terms on offer should it ever be necessary to do so.

## 2 Statutory and Discretionary Compensation

- 2.1 Home Loss Payments are a statutory payment (under Section 29 Land Compensation Act 1973 (as amended)) paid to any tenant or owner affected by a selective demolition scheme. Entitlement to apply for a home loss payment arises if a person has been forced to leave their home for a reason set out in the Act, and is designed to compensate for the stress and inconvenience caused by the move.
- 2.2 Currently, Home Loss payments for tenants who have lived in a property for 12 months or more are set at £4,700 under the terms of The Home Loss Payments (Prescribed Amounts) (England) Regulations 2008. Tenants who have lived in a property for 12 months or more will receive a flat rate of £4,700.
- 2.3 Whilst this report is focussed on tenants only, it should be noted that the Act also provides for statutory compensation of either £4,700 or 10% of the purchase price, whichever is the greater, for owner occupiers affected by redevelopment schemes, over and above a Compulsory Purchase valuation.
- 2.4 Under Section 37 of the Land Compensation Act 1973 (as amended), a Disturbance Payment is also payable in certain circumstances where a tenant is displaced from land being redeveloped. It is proposed that reasonable Disturbance Payments should apply in all cases where the property of an existing Council tenant is demolished as part of a Council New Build scheme.

The amount of a Disturbance Payment is an amount equal to the reasonable expenses of the person in removing from the land, and, if carrying on a trade or business, the loss sustained because of disturbance to that trade or business. 'Reasonable expenses' will include such costs as removals, disconnection and reconnection of cookers, water heaters, telephones and TV aerials and the fitting and adaptation of carpets and curtains.

- 2.5 In addition, under the General Power of Competence in Section 1 of the Localism Act 2011, the Council can make equivalent discretionary payments to Home Loss and Disturbance Payments to tenants who would not otherwise be entitled to these. It would be appropriate to make these to obtain possession without having to undertake legal proceedings to secure possession.

### 3 Re-housing Policy

- 3.1 Should a tenant wish to be re-housed in a property in the new development, it is proposed that the tenant will be 'Direct Matched' to that property (subject to 3.4 below) once the property is advertised on Hampshire Home Choice. This means the Council will allocate the property directly to the tenant and therefore no other applicants will be able to bid for that property.
- 3.2 If necessary, in the period between the tenant needing to leave their current home to their tenancy commencing at the new property, the tenant will be temporarily 'decanted' to another suitable property in accordance with the Council's existing "decanting" policy, which meets all reasonable disturbance costs of the short term move (including storage of possessions, provision of carpets, curtains and other furnishings etc)..
- 3.3 Should a tenant not wish to, or not be able to be re-housed in a property in the new development, the tenant will be awarded 'Band 2' priority on the Hampshire Home Choice housing register as soon as a Final Demolition Notice is served. This will give the tenant a high priority and should enable them to secure a suitable alternative accommodation. Typically, there are approximately 150 to 200 applicants in band 2. Average wait times for band 2 applicants is between 1 month and 9 months depending on how selective they are in their bidding. This is compared to over 1500 applicants in band 3 with an average wait time in excess of 3 years.
- 3.4 In accordance with the Council's Allocation Scheme, applicants will be allocated accommodation which meets their housing need. The number of bedrooms an applicant can be considered for is determined by looking at the size and structure of the household as set down in the Hampshire Home Choice Allocation Framework. It is proposed that tenants affected by the proposals in this report who are under-occupying their current property will be permitted to move to a property that is one bedroom larger than their housing need should they wish to retain an additional bedroom. For tenants who receive some form of benefit, the "social sector size criteria" reduction for over occupation would apply and they would be subject to the reduction in benefits

of 14% of their total rent if they chose a property with an additional bedroom over and above their assessed need.

- 3.5 Any new property will be subject to an Affordable Rent rather than a social rent. It is not proposed to offer any financial subsidy towards the rent should the tenant opt to move to the new development. The new homes offer significant advantages through complying with modern building control and energy efficiency standards. If a tenant is not in a position to meet the new affordable rent, the provision of band 2 priority will at least allow them to relocate to an existing Council home at a similar rent to their existing home.
- 3.6 In the event that a tenant is unable to identify an appropriate home through Hampshire Home Choice within 6 months of a Final Demolition Notice being served, the Council would then provide further support in identifying a suitable property (in accordance with 3.4 above) and “Direct Match” the tenant as set out in 3.1 above.

#### 4 Support and Advice

- 4.1 As with the existing approach to decanting tenants when undertaking works to their property, tenants will be given comprehensive advice regarding the housing options available to them and will be provided with help and support appropriate to the housing choice they make. This will include support and if necessary direct assistance in applying and bidding for properties and with the moving process.

#### 5 Independent Advice

- 5.1 Clearly, any proposal that impacts or affects a tenant’s secure tenancy will need to be handled very carefully and sensitively. The proposals in this report aim to ensure that appropriate support is provided by the Council to any tenant affected by development proposals. However, it is likely that tenants would also seek some form of independent support and advice, if only to ensure what the Council is saying is reasonable and accurate.
- 5.2 In addition to the support of local councillors, such support is available from a number of agencies including:
- a) Citizens Advice Bureau – The CAB would provide independent advice and support to such cases on request and are well placed to advise on statutory rights of individuals
  - b) Shelter – Shelter are a national organisation which provide a 24 hour help line to provide assistance to any member of the public who has concerns regarding their housing situation.
- 5.3 In addition to the above agencies, it is proposed that the Council commission direct support from an experienced national or local tenancy support agency on a “call off” basis to act as advocates for the tenants or as a “tenants friend”, similar to the role provided to Winchester tenants by TPAS (the Tenant

Participation Advisory Service) through the Housing Options process in recent years. Discussions are under way with a number of potential providers and provision has been included in the existing HRA budget to fund this service. The service would be funded initially from a “retainer” fee that can be incorporated within the existing budget. Clearly costs would be subject to time spent advising tenants and additional charges can be incorporated within viability assessments of any scheme likely to require such supports.

#### OTHER CONSIDERATIONS:

#### 6 SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

6.1 Developing new homes is a key priority for the Council as it seeks to promote active communities. It also facilitates the District’s economic prosperity.

#### 7 RESOURCE IMPLICATIONS:

7.1 A budget will be established from which compensation and disturbance payments will be made. These costs will be included in the scheme development costs and included in the viability assessment of the scheme, as would the cost of any additional support and advice to tenants affected by the schemes.

7.2 The “retainer” fee to commission external and independent tenant support can be met from existing budgets.

#### 8 RISK MANAGEMENT ISSUES

8.1 The Council wants to develop and deliver an ambitious programme for the building of new council houses. The risks lie in delays arising from inadequate resourcing, unnecessarily bureaucratic procedures and a weakening of political commitment.

8.2 More specifically in development terms, all new build projects are subject to risk, particularly with respect to abortive costs at site appraisal stage. However most of the risks can be reduced through carrying out the surveys and financial appraisals prior to a formal contractual relationship being established with a Builder.

#### 9 TACT COMMENT

9.1 This report has been discussed with the Chair of TACT, although she has yet to discuss the detail with her main group. TACT welcomes the clarification of how tenants would be treated should they be affected by future developments. Whilst the proposals are reasonable, an additional verbal comment may be brought to the meeting once the proposal has been discussed with other TACT members. TACT request that they be fully consulted in the commissioning process for the independent support as they were with the Housing Options project.

BACKGROUND DOCUMENTS:

None

APPENDICES:

None