

Allocation of Affordable Housing S106 contributions to Adactus Housing Association

Report of Corporate Director (Regeneration)

PURPOSE OF REPORT			
To obtain Cabinet Member Approval to permit a grant application for £90K from the affordable housing Section 106 commuted sums.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	19 August 2010		
This report is public			

RECOMMENDATIONS OF COUNCILLOR KERR

- (1) That the allocation of £90K of S106 monies to Adactus Housing Association be approved, to bring forward the development of 23 units of affordable housing at Marlborough Road, West End, Morecambe.
- (2) That the General Fund Capital Programme be updated to reflect the above Section 106 grant allocation to Adactus for Marlborough Road, and that £90K of Regional Housing Pot funding be re-allocated from the Marlborough Road scheme to the Bold Street scheme, to continue with further acquisition and demolition.

1.0 Introduction

- 1.1 A report was presented to Cabinet on 10 November 2009 to agree the process in allocating affordable housing S106 commuted sums.
- 1.2 Cabinet members approved that the determination of allocations of the monies will be made by Individual Cabinet Member Decision by the portfolio holder for Health and Wellbeing. Given this proposal's implications for Cabinet's decisions taken at its June meeting, however, the issue is now presented to Cabinet for consideration.
- 1.3 This is the second application that has been made to provide funds to a Housing Association via the Section 106 commuted sums. This request is to facilitate the development of 23 units of affordable housing on a shared ownership basis (part rent-part buy) at Marlborough Road, West End, Morecambe.
- 1.4 On the 22nd June 2010, Cabinet agreed that after the allocation of £100K to support Disabled Facilities Grants (DFG's), the remainder of the Regional Housing Pot

(RHP) was allocated to housing regeneration projects (minute no. 18 relates), thereby providing a framework in which to allocate funds/bring forward key schemes as deemed appropriate. It was explicit within the body of the report that Lancaster City Council was expected to provide some funding to the Marlborough Road development in this financial year and that the allocation towards DFG's would impact on delivery of other schemes such as Bold Street in that its development would take place at a slower rate in line with the reduced allocation. The developer, Adactus Housing Association, hopes to start on site (Marlborough Road) in October 2010 and anticipates that the scheme will be completed in spring 2012, should funding be available.

- 1.5** To date, Lancaster City Council has contributed £323K into the scheme, and ideally it would be required to provide a further £322K at the time of commencement of development with a further £152K upon completion. Adactus have agreed, however, that the £474K can be phased over a three year period and Cabinet have recently approved the allocation of £200K from the Private Sector Housing Capital Programme in 2010/2011, with the £274K remainder to be paid over the next two years subject to approval and funding being available. There is the risk, however, that insufficient RHP funding will be receivable in future years, especially in view of other spending pressures.
- 1.6** Section 3 of the Council's policy on Section 106 commuted sum funds outlines the criteria to be applied on spending monies. This includes circumstances where there is a gap between the funding available to a Registered Social Landlord and funding available from the Homes and Communities Agency to make an affordable housing scheme viable. The gap in confirmed funding required to make the Marlborough Road scheme viable is set out in 1.5 above, and it is considered that this satisfies the criteria within the Council's current policy.
- 1.7** Whilst in June 2010, Cabinet agreed to allow a £200K contribution to support the Marlborough Road scheme, using £90K of the Section 106 commuted sums clearly offers a benefit to the Council in either bringing forward sooner the continued regeneration in the West End, or potentially reducing other risks associated with the Private Sector Housing Capital Programme. The Marlborough Road scheme is physically very close to the site of the Bold Street proposal and continued uncertainty or delay in bringing forward the implementation of a proposal at Bold Street can have only a negative impact on the successful delivery and take-up of new properties in the Marlborough Road proposal. Thus, the provision of £90k from the Section 106 fund both directly supports the Marlborough Road proposal and, additionally, indirectly supports the Marlborough Road proposal by enabling progress to be made on the co-ordinated regeneration of the immediate physical environment.
- 1.8** The sum of £90K represents the balance of Lancaster City Council's commuted sums which can be spent in any part of the district including the West End. The remainder of the commuted sums is ringfenced to Lancaster City boundary area only.

2.0 Background/Proposal Details

- 2.1** The development is at Marlborough Road, West End, Morecambe, comprising of 23 units of affordable housing, providing 12 flats and 11 houses, all of which are for shared ownership. Since June cabinet, officers have had further detailed discussions with Adactus Housing Association regarding the Marlborough Road scheme both in relation to a variation to the original planning consent and in relation to the use of Section 106 commuted sum funds. When the scheme initially obtained planning permission in 2007, Adactus had intended designating the flats for persons aged 55

and over. However, given the current market conditions, the Registered Social Landlord has submitted an application to vary the terms of the planning permission to remove the age designation, which will allow greater flexibility in securing take up of properties and the viability of the scheme, given the market changes. This should be determined by Planning Committee in the autumn. The Planning and Housing Policy Team have supported this variation, and have informed the Homes and Communities Agency accordingly to ensure that HCA funding remains in place to make the scheme viable.

2.2 The scheme not only meets our affordable housing objectives by providing 23 units of affordable housing, but also supports the continued regeneration of the West End Masterplan, which is a key corporate priority for Lancaster City Council.

2.4 Adactus Housing Association and the Homes and Communities Agency will be committing £2.317M to the development.

3.0 Options and Options Analysis (including risk assessment)

3.1 Option 1: Approve the £90K grant to Adactus Housing Association from the S106 commuted sum funds, which will provide the necessary funding in this financial year to make the scheme viable, subject to the resultant £90K from the £200K commitment contained in the Private Sector Housing Capital Programme being used to achieve further acquisitions of properties on Bold Street as originally anticipated prior to the Regional Housing Pot funding being reduced.

An agreement will be compiled to confirm the grant. The money will be awarded to the Association at the commencement of the development along with £110K from the Private Sector Housing Capital Programme. The agreement will set out a requirement that the Association must liaise with the Council on any change of use or adaptation to the management of the properties that would impact on the original use and nomination rights.

3.2 Option 2: Do not approve the £90K grant to Adactus Housing Association from the S106 commuted sum funds. There will still be a requirement to provide a £200K commitment from the Private Sector Housing Capital Programme in this financial year, which will ensure the Marlborough Road scheme continues to be viable, but will not enable any opportunities to be gained from releasing £90K of RHP monies for other purposes. Instead, the £90K S106 money will be used to support an alternative affordable housing project within the district. To date, partner Registered Social Landlords have submitted informal expressions of interest for a number of possible schemes, which include three schemes in Lancaster city, a scheme to provide 6 x shared ownership properties in rural areas, and two schemes in North Lancaster. All of these schemes would be subject to formal approval and sufficient funding being identified. The Marlborough Road scheme is at an advanced stage of preparation and it is fully anticipated that it can be commenced in the near future.

3.3 Option 3: Approve the £90K grant and then re-allocate the released funds from the Private Sector Housing Capital Programme into the Disabled Facilities Grant programme (DFG's). Members will recall that the report to Cabinet in June highlighted the need for a waiting list to be introduced to manage the reduction in budget. Since this was introduced following Cabinet's decision, the service has experienced delays in receiving new referrals from Occupational Therapy at LCC and although officers are in discussions with county to seek a resolution, at this point in time, there is no guarantee that any additional funds allocated to DFG's would be able to be spent or committed by the end of March 2011. Furthermore, this option

offers no benefits in terms of targeting additional financial resources in bringing about the continued regeneration of the West End, as a direct result of using the Section 106 commuted sums funds, which is expressly why approval is being sought for the Marlborough Road scheme instead of alternative affordable housing schemes elsewhere in the district.

- 3.4 Option 4:** Approve the £90K S106 grant but then leave the resulting £90K of RHP funding unallocated, to cover funding risks associated with providing the remaining £274K funding needed for Marlborough Road in future years or any future changes in DFG demand. There is no certainty that the £90K of RHP funding, if left unallocated, would be used to support the regeneration of the West End; it would depend on Members' future decisions. Furthermore, in line with the comments above, there is no clear information on future funding needs for DFGs. Additionally, and as described in paragraph 1.7 above, should the Council not be in a position to progress the acquisition and demolition on Bold Street, then its continuing decline is likely to impact negatively on the potential sales and take up of properties on the Marlborough Road scheme and so potentially jeopardise the delivery of the overall intention to secure economic and social benefits in the West End through the implementation of a comprehensive and co-ordinated programme of regeneration.

4.0 Officer Preferred Option (and comments)

- 4.1** The officer Preferred Option is Option 1

- 4.2** By providing a £90K S106 grant to Adactus Housing Association, there is an opportunity to spend the remaining commitment from the Private Sector Housing Capital Programme for this financial year to bring forward the acquisition of properties on Bold Street, which is another identified key corporate priority as part of the West End Masterplan, and would bring forward the continued progress of the West End Masterplan, and associated benefits to the wider community and district. Should the regeneration of Bold Street not move further forward at the earliest possible opportunity, this is likely to have a negative impact on the Marlborough Road scheme and will undermine the regeneration of the West End and level of investment already committed. The £90K will only be granted upon Lancaster City Council and Adactus Housing Association entering into a written agreement which will bring about the delivery of the Marlborough Road scheme. The agreement will ensure that the Council can exercise their right to provide 100% nominations for the 23 affordable housing units should it choose to do so, and in perpetuity, through the Council's proposed Choice Based Lettings Scheme, which is due to be launched in April 2011. Although the Council does not currently exercise formal nomination rights for shared ownership properties within the district, the forthcoming Choice Based Lettings Scheme will provide a framework for providing a wide range of housing options within the district, which will include low cost home ownership opportunities, shared ownership and market rented/private sector rented accommodation.

5.0 Conclusion

- 5.1** A grant of £90K from the Section 106 commuted sums fund will both enable the delivery of the Marlborough Road proposal and contribute to the continued implementation of the West End Masterplan.

RELATIONSHIP TO POLICY FRAMEWORK

Corporate Plan 2009-2012 Objective 6 of the Corporate Plan is to improve the standard, availability and affordability of housing in the district to meet local needs. This is measured by Key Target NI155 - Number of affordable homes delivered (gross) and is addressed by Key Action 6.1 in the Lancaster District Local Strategic Partnership's Health & Well Being Thematic Group action plan – "Provide affordable housing in accordance with the Housing Strategy and Local Development Framework".

Housing Strategy priority 2 target is to produce a protocol for spending commuted sums and deliver affordable homes in partnership with the Housing Corporation (now the Homes and Communities Agency).

Core Strategy Meeting the affordable housing requirements of the district is set out in Policy SC4 and informed by the housing needs study endorsed by the planning policy cabinet liaison group on 14 February 2008.

Proposed MAA The regeneration of Morecambe's West End is one of the three key sub-regional priorities identified in the Mid-Lancashire Multi-Area Agreement (MAA) which has involved partnership working with the five local authorities within the Mid-Lancashire area and Lancashire County Council. The MAA when signed will provide the vehicle for channelling all housing and regeneration funding in Mid-Lancashire from this financial year onwards. Subject to member approval, all funding of this nature will be incorporated into a single overall investment plan for the district.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Equality, Diversity and Sustainability implications have been taken into consideration in relation to the housing provided. All properties will meet the HCA standards including Lifetime Homes, and the provision of shared ownership properties will continue to achieve a better mix of tenure within the West End in relation to community safety and the longer term sustainability of the area.

All RSLs are committed to ensuring that the allocations of affordable housing are in accordance with their equality and diversity policies.

FINANCIAL IMPLICATIONS

The £90K proposed grant allocation to Adactus Housing Association represents the remaining sum of existing commuted sum funds that is not ring fenced to any specific part of the district, therefore an opportunity has arisen to promote more timely development in the West End, which is a key corporate priority for the Council.

Although, in this particular case there is no explicit contractual obligation to spend the S106 monies within a set period of time, it is usually the norm with these type of agreements that the Council must spend the commuted sum funds within five years of receipt otherwise the funds have to be returned to the developer. It is implied therefore, that in this particular case the commuted sum must be spent by 06/04/2014, otherwise may need to be returned.

A current city council internal policy exists that sets out the process for spending the Section 106 commuted sum funds, and if approved, officers from the Forward Planning Team in conjunction with the S106 Officer will be responsible for ensuring that the grant is used in accordance with this and also any specific requirements arising from the actual S106 Agreement.

Financial management of the S106 funding Programme will be further supported via regular reporting by the Head of Regeneration and Policy and in liaison with the Programmes and Funding Manager.

SECTION 151 OFFICER'S COMMENTS

As with the report to Cabinet in June, this report highlights the current funding difficulties with regeneration schemes in the West End. Nonetheless, Members are advised to consider carefully whether, in the circumstances, any proposed use of S106 monies fits within the approved policy and if so, what the most beneficial re-allocation would be for the resulting £90K of RHP monies.

LEGAL IMPLICATIONS

The £90K proposed grant to Adactus Housing Association from the S106 commuted sum funds will require a written agreement setting out the financial contribution being made by Lancaster City Council towards the delivery of the scheme, which in the current financial year will total £200K at the commencement of the development, subject to 5.1 and 5.2 above applying. The £90K grant meets the criteria set out with Lancaster City Council's Policy on the spending of Section 106 monies at set out in 3.3 of the policy by making an affordable housing scheme viable where there is a gap between the funding available to the RSL and Homes and Communities Agency.

MONITORING OFFICER'S COMMENTS

The Monitoring officer has been consulted and has no further comments.

BACKGROUND PAPERS

Agenda and Minutes of Cabinet 22 June 2010.
Policy on spending Section 106 monies.

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