

# Homelessness and rough sleeper housing pathway proposals and potential use of s106 commuted sums

Councillor Ashley Yeates, Cabinet Member for Regulatory Services, Housing & Wellbeing

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Agenda Item: 8  
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Key Decision? YES

**CABINET**

## 1. Executive Summary

- 1.1 This report outlines some initiatives being developed by the housing team to reduce homelessness and rough sleeping in the district. This includes enhancing our existing services to provide tenancy sustainment and training for our more vulnerable customers, encouraging greater involvement with the Private Rented Sector (PRS) and a proposal to work in partnership with Cannock Chase District Council to jointly procure a provider to deliver a housing pathway for rough sleepers and those at risk of homelessness with multiple and complex needs.
- 1.2 The report also updates Cabinet on the outcome of the tender exercise for using the commuted sum<sup>1</sup> monies included in the approved Capital Programme to deliver new affordable homes, outlined in the Cabinet report dated 13<sup>th</sup> February 2018 and proposes an alternative option for using the money to purchase properties to reduce the incidence of homelessness and rough sleeping.

## 2. Recommendations

- 2.1 That Members approve and delegate to the Head of Service and Cabinet Member the award of the procurement exercise for a partner to deliver the homelessness and rough sleeper housing pathway service costing up to £125,000 for an initial 2 year period, with possible extension of 2 years, subject to the success of the project and availability of funds.
- 2.2 That Members approve the alternative use for the Approved Capital Programme projects funded by commuted sum monies and potentially from existing external grant to purchase properties to provide accommodation as part of the proposed housing pathway model.
- 2.3 That Members approve and recommend to Council the delegation of next steps to the Head of Service and Cabinet Member, to acquire property for this project from a minimum approved budget of £400,000<sup>2</sup> up to a maximum of £809,000 of additional housing reserves<sup>3</sup> with oversight by the s151 officer and monitoring officer. Additional expenditure will only occur if the project proves successful and further capacity is required.

<sup>1</sup> Where constraints preclude the delivery of affordable housing on site, it is possible for the council to negotiate a commuted sum in lieu of this on site delivery. Any money received as a commuted sum must be spent on affordable housing delivery within the district.

<sup>2</sup> The unallocated Section 106 Affordable Housing Monies Approved Budget.

<sup>3</sup> Through the use of Approved Housing Budgets related to DCLG monies of £212,000 and Decent Homes Standard of £197,000.

- 2.4 That Members approve the creation of a sinking fund to provide funding for upgrades to the properties and an earmarked reserve for the transfer of any surplus between income and spend to enable reinvestment in future options to alleviate homelessness and rough sleeping.

## 3. Background

- 3.1 In July 2018, we launched the application process for approved Registered Providers (RPs) to bid for up to £400,000 of commuted sums held in council reserves. It was hoped that the competitive process between RPs would give the panel comprising officers, the Head of Service and Cabinet Member, a number of bids to evaluate, with the funding being awarded to the scheme that scored the highest according to the assessment criteria. Unfortunately only one bid was received and following assessment, the panel found it did not meet the pre-requisite requirements set out in the original evaluation criteria. After careful consideration and discussion with the RP, the panel decided that the bid did not meet all the required outcomes; in particular the need for homes to be delivered to Lifetime Homes standards<sup>4</sup> and the provision of additional affordable rented accommodation, and therefore declined the application.
- 3.2 Running parallel to the application process, as part of the implementation of the Homeless Reduction Act 2017(HRA 2017), the housing team have been reviewing the options available to enable the council to discharge the new duties to prevent and relieve homelessness. Through this work it has become apparent that an increasing proportion of customers accessing the service display multiple and complex housing needs and the accommodation options available to them are therefore very limited. Access to the majority of RP stock is based on an assessment of a customer's ability to sustain a tenancy, with higher risk customers often being denied access to accommodation without a package of support in place. The erosion of support available from the statutory and voluntary sector and the lack of supported accommodation within the district<sup>5</sup> makes options for rehousing this cohort extremely difficult, and may have impacted upon the increase in rough sleepers<sup>6</sup> reported over the last year.
- 3.3 Due to the rising needs of those presenting as homeless, lack of supported accommodation, increase in rough sleeping and the reluctance of RPs to accept individuals with more complex needs into their tenancies without support, supported by the government's latest Rough Sleeping Strategy 2018<sup>7</sup> the team have set the vision to have options available for all our rough sleepers by 2020. To do this, using Flexible Homelessness Support Grant (FHSG) awarded to us to implement the provisions of the HRA 2017 we are developing the following initiatives:
- **Tenant Ready Training**  
This is aimed at customers with low level support needs that currently lack all the skills to enable them to successfully sustain a tenancy. It will initially be targeted at those who have had a previous failed tenancy, first time tenants or those classed at high risk of tenancy failure. Examples of the training modules will include preparing to be a good tenant and neighbour, understanding the tenancy conditions and how to look after the home and personal money management. We plan to pilot this training for 2 years, delivered by the Housing Options Officers and a new Tenancy Sustainment Officer.
  - **Tenancy Sustainment Officer**  
For those individuals who have more complex needs and require ongoing support to sustain a tenancy, we are expanding the service to offer personalised support to a customer for a period of up to six

<sup>4</sup> Lifetime Homes is a set of 16 design criteria that allow a home to flex and adapt to disability needs, e.g. level access to the front door, wider interior door widths and circulation space on the ground floor, ability to easily install adaptations such as ground floor level access shower, stair lift etc.

<sup>5</sup> Following the closure of the Foyer Scheme in Lichfield in 2016, the only supported accommodation provision has been 15 units of accommodation for those with enduring mental health provided by Advance Housing.

<sup>6</sup> We estimate there are between five and seven people sleeping rough on our streets every night; the last official count conducted on 7.11.18 reported 5.

<sup>7</sup> The government's Rough Sleeper Strategy requires us to have plans in place to end rough sleeping by 2027 and halve it by 2022.

months to ensure their tenancy starts well. It is anticipated that this support will vary in intensity according to the needs of the individual. This support will also be offered to individuals who are already in accommodation, but where it is at risk of failure and will form part of our homeless prevention offer to support the Housing Options Team fulfil their statutory duties. Failure of a tenancy has consistently been one of the main reasons for homelessness- see Appendix A. The Tenancy Sustainment Officer will also be a key link between the council and private landlords to enable us to expand our PRS offer for customers. The post will be advertised on a fixed term contract for 2 years.

- **Landlord Offer**

We are exploring options to encourage more private sector landlords to work with us which are still being developed. We have consulted with landlords on our initial proposals at the Private Landlords Forum meeting in January 2019 and received positive feedback.

- **Other Initiatives**

We are hoping to procure Advice Aid, an online tool from Shelter that provides customers with tailored advice to try and prevent homelessness. In addition, we are also ring-fencing £7,000 of the FHSG each year for the Housing Options Team to spend on homeless prevention; for example to allow them to request identification for a rough sleeper, without which they would be unable to claim benefits and be rehoused.

- **Homeless & Rough Sleeper Pathway – see Appendix B**

In conjunction with Cannock Chase District Council, we are seeking to commission a delivery partner to provide an independent and impartial outreach service to our rough sleepers and other homeless customers that need support. This organisation will also provide at least 5 units of supported accommodation within the district, creating a seamless pathway into accommodation for these customers. It is anticipated this accommodation will support those individuals with the most acute needs, forming part of the Housing First model<sup>8</sup>, but also flex to cater for those with lower level support needs who may be at risk of homelessness. This will be a two year project, with the view to extend if successful outcomes are achieved and the funding source remains.

Given the potential total value of this contract delivered over the four year period, the council will be seeking open tenders through the OJEU procurement process throughout the period of March, with support from Wolverhampton Council's Procurement Team. It is anticipated the service will be operational from the beginning of June 2019.

- 3.6 As we have no retained housing stock, we will be reliant on our RP partners or the PRS to provide the accommodation for the initiative. We have already engaged with the largest RP Bromford who has confirmed that they would, in principle, be willing to support the scheme with the provision of some accommodation, however if the successful provider needs to procure private rented properties where rents are much higher, the cost of the scheme may become unaffordable. An option is for the council to purchase properties for the provider to use as part of expanding the initiative.
- 3.7 We are therefore proposing to use the Approved Capital Programme budgets to purchase some properties for the project providing up to 4 units of accommodation, to contribute towards alleviating rough sleeping and homelessness in the district. This accommodation is likely to be in the form of houses located within, or near to the city centre, providing accommodation options for those individuals with low to medium level support needs. We would look to the successful provider to lease these properties from the council at a charge based on affordable rent levels, taking on responsibility

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<sup>8</sup> The Housing First model originated in America with several pilots now having taken place in the UK. The premise of this model is the provision of accommodation with the only conditionality being the willingness of the individual to maintain the tenancy, the level of support provided is tailored to the individual.

for the day to day repairs, housing management and support provision through a robust lease and service level agreement. The costs for this service will be covered by housing benefit, through the support exempt accommodation rules, meaning the council could expect a return on investment. This return would need to cover the council's costs such as relevant insurances and maintenance for the fabric of the building, with a proportion being ring-fenced as a sinking fund to provide the required upgrades to the properties in as required. Any remainder can be reinvested into providing future options to alleviate homelessness and rough sleeping.

- 3.8 We have sought advice from the Ministry of Housing, Communities and Local Government (MHCLG) on the need for a Housing Revenue Account and they have confirmed that we do not need to open one until we own 200 homes. All we would need to do is write to MHCLG to advise them that we were acquiring (or leasing or building) homes and seek direction to be excluded from the need for a HRA by the Secretary of State under s74 (3) d of the Local Government and Housing Act 1989.

Alternative Options	<p><b>Homeless &amp; Rough Sleeper Pathway</b></p> <ul style="list-style-type: none"> <li>To do nothing is not an option; we are required by government to have a plan to halve rough sleeping in the district by 2020 and end it by 2027. Continuing with the current system will not help to alleviate this issue and place increased strain on the Housing Options Team.</li> </ul> <p><b>Approved Capital Programme Budgets (including the Commuted Sums)</b></p> <ul style="list-style-type: none"> <li><b>Invite our approved RPs to retender</b> - Based on the feedback received from the RPs, to be successful it is likely we would need to increase the amount of funding available, revise our original criteria, have a longer lead in times or consider including council land opportunities. This option was discounted based on the time delays for retender, the increased council investment and having to compromise our original outcomes, in addition to the greatest risk of receiving no viable tenders.</li> <li><b>Bridge viability gap on a new development(s)</b> – Another option is to provide funding to bridge the gap on the ‘unviable’ proportion of new homes on a site that is not viable at the full policy complaint level of affordable (currently 35%) once confirmed by the District Valuer after an independent viability assessment and subject to compliance with state aid requirements. There is however the possibility that Homes England may bridge this gap in exceptional circumstances once an RP has been agreed with the developer, so this option should be pursued in the first instance. It would however need a clause inserting into the s106 agreement and negotiation with the developer if we wanted to achieve this before an RP was in place at outline planning permission stage.</li> <li><b>Purchase empty homes</b> - This option would bring numerous benefits but it is the most time consuming and resource intensive option we considered. It has therefore been discounted due to the risk of the developer requesting their contribution back and us not being able to support our customers in need in the required timescales.</li> <li><b>Council built homes</b> – Using the money to build affordable homes on council land would be a potential use of the funding once the council’s housing company has been formed but as there is no definite date for this the money could not be spent in a reasonable timescale. Any homes purchased could be transferred to the housing company once established if appropriate.</li> </ul>
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## Consultation

- The tenancy sustainment officer post and homeless and rough sleeper pathway was approved in principle by the Leadership Team in a briefing to update them on the implementation of the HRA.
- We invited bids for the commuted sums at our RP event in July, with prior communications with all approved RP's to inform them about the upcoming opportunity. RP's were also receptive to the proposed sustainment package.
- The proposals were endorsed by the Community, Housing and Health Overview and Scrutiny committee at its meeting on 9<sup>th</sup> January 2019. Members were very supportive of the initiatives outlined to try and reduce homelessness and rough sleeping in the district.
- We consulted private landlords at a landlord's forum meeting on the 24<sup>th</sup> January 2019 on our proposals around the pathway and tenancy sustainment and received positive feedback.

## Financial Implications

- The pathway will be part funded by some of the ring fenced FHSO of £326,000 allocated by the government for the 3 financial years 2017-2020. We have also submitted bids to the governments Rapid Rehousing Pathway Scheme and PRS Access Scheme for funding towards the project and we are currently awaiting a response as to whether we have been successful.
- We did some soft market testing to assess the likely costs of a homelessness and rough sleeper pathway scheme, with providers indicating costs ranging from £40,000 per annum for Lichfield District alone. Since this time we have revised our specification and are also working with Cannock Chase, which will result in some economies of scale so it is difficult to give a comparable figure for two local authorities. However, as the potential cost for 2 districts is over the Official Journal of the European Union (OJEU) levels we need to go out to tender through this route and so we have given a limit of up to £125,000 per annum for the 2 districts in the tender submission.

The projected financial implications of the proposal for the two councils for an initial 2 year period are detailed below:

Homelessness and Rough Sleeper Pathway Service for Lichfield District and Cannock Chase District Council			
	2019/20	2020/21	Total
<b>Total Income</b>	<b>(£125,000)</b>	<b>(£125,000)</b>	<b>(£250,000)</b>
Service provision	£125,000	£125,000	£250,000
<b>Revenue Financial Implications</b>	<b>£0</b>	<b>£0</b>	<b>£0</b>

- The funding to purchase the homes will use c£400k of s106 monies that is part of the Approved Capital Programme; this must be spent on affordable housing delivery. Other commuted sums negotiated will be added once they are received and further purchases may be considered once adequate sums are received or from other housing reserves. We have further approved housing related Capital Programme budgets (DCLG monies of £212,000 and Decent Homes Standard of £197,000) that we propose to use on further property acquisitions if the project proves successful and further capacity is required.

- The potential revenue implications related to the purchase of these homes is shown below:

Acquisition			
Development	Base	+20%	-20%
Dwellings	4	4	4
Acquisition Costs	£400,000	£480,000	£320,000

Annual Rental based on Acquisition Costs of £400,000			
Development	Base	-1%	+1%
Gross Rental Yield	5%	4%	6%
Rental Income	(£18,000)	(£14,000)	(£22,000)
Running Costs (70%)	£12,600	£9,800	£15,400
Sinking Fund (20%)	£3,600	£2,800	£4,400
Homelessness and Rough Sleeper Reserve (10%)	£1,800	£1,400	£2,200
Revenue Financial Implications	£0	£0	£0

- The proposed purchases may allow the council to reduce the use of bed and breakfast temporary accommodation budget of £11,000 per annum which would result in a saving to the council and it could create a small return on the investment.
- The homeless and rough sleeper pathway contract may be procured for less if suppliers have access to council owned affordable properties rather than having to find properties through the private sector.

#### Contribution to the Delivery of the Strategic Plan

- The pathway will contribute most significantly towards the themes of 'healthy and safe communities' and being a 'clean, green welcoming place' by reducing homelessness and providing new affordable homes. It will also assist towards rough sleepers building new lives.
- In addition, the support element tied with accommodation will contribute to the 'vibrant and prosperous economy' by creating local jobs.

#### Equality, Diversity and Human Rights Implications

- The pathway will have a positive impact for those in housing need, particularly those deemed as vulnerable and at risk of homelessness and rough sleeping.

#### Crime & Safety Issues

- The provision of supported accommodation options will potentially reduce the issues of anti-social behaviour created by some of our rough sleepers who have been using various car parks to sleep in.

#### GDPR/Privacy Impact Assessment

- No identified concerns

#### Health & Wellbeing Implications

- The provision of the initiatives and the purchase of new affordable homes will significantly contribute to the health and wellbeing of vulnerable people at risk of homelessness and rough sleeping by providing supported accommodation options.

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Developer requests their contribution to be returned as we exceed legal timescales.	Ensure alternative options assessed, appraised and approved swiftly. Give greater weight to the options with quicker outcomes.	Green
B	Properties purchased require significant work with unforeseen costs.	Use in house expertise or consultants or to fill knowledge gaps. Budget for technical fees and surveys required. Sinking fund for repairs, paid for via a percentage of the rental income which is ring-fenced for this purpose.	Yellow
C	Management of properties on completion of sale.	Ensure correct insurances and maintenance agreements in place to cover large scale works. Partner required to deliver housing management, day to day repairs etc. Require robust SLA with break clauses for non-compliance.	Yellow
D	Risks that the tenants could purchase their property through the governments Right to Buy (RTB) scheme.	RTB rules: to qualify a tenant must hold a secure or assured tenancy and have at least 3 years tenancy history as a public sector tenant (Council, Housing Association or Registered Provider). The property must also be self-contained. As our proposal is to provide shared accommodation which will be time limited it will be exempt from RTB rules.	Green
E	Properties do not lend themselves to be used as shared ownership, location, type etc.	Input from the organisation that is successful in the tender exercise prior to purchase. This organisation will have a history of delivering shared accommodation and be able to give expertise as to the best type of property and location for this type of accommodation.	Green
F	Lack of rough sleepers/homeless applicants require the accommodation, resulting in void loss.	Detailed understanding of the cohort of individuals ascertained through our Housing Options Team. Alternative options have been considered for the properties if perceived demand does not materialise, such as temporary accommodation or general needs lets through a further partner arrangement. We could also transfer the homes to the council's housing company once formed.	Green
G	Properties purchased could lose value with changes to the market.	Any investment is made for the long term, the likelihood of prolonged low property prices is slim and would not grossly affect the rental income from the homes, only the price if we chose to sell.	Green
H	The rent on housing properties is exempt from VAT and therefore if sufficient properties were acquired this may result in a breach of the VAT partial exemption 5% limit. This would mean we could not reclaim circa £100,000 of VAT per annum.	At present our level is circa 2% and this equates to £40,000. Therefore the Council has headroom of circa £60,000 and this equates to circa 14 further property acquisitions before the limit is reached (assuming no other changes to VAT in the Council). Therefore we will monitor the level of acquisitions and their impact on the VAT limit.	Green

## Background documents

Lichfield District Council (2013-2017) Housing Strategy: <https://www.lichfielddc.gov.uk/Residents/Housing/Housing-strategy/Download-our-housing-strategies>

Habinteg (2010) Lifetime Homes Criteria:

[http://www.lifetimehomes.org.uk/data/files/For\\_Professionals/accessible\\_revisedlthstandard\\_final.pdf](http://www.lifetimehomes.org.uk/data/files/For_Professionals/accessible_revisedlthstandard_final.pdf)

MHCLG (2018) Rough Sleeping Strategy:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/733421/Rough-Sleeping-Strategy\\_WEB.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733421/Rough-Sleeping-Strategy_WEB.pdf)

MHCLG(2018): Rough Sleeper Strategy Delivery Plan: <https://www.gov.uk/government/publications/rough-sleeping-strategy-delivery-plan>