

**Portfolio Holder for Housing and Homelessness Decision – 11
October 2024**

**Proposed Purchase of Forty-Two Affordable Homes for
Rent and Shared Ownership**

Purpose	For Decision
Classification	Report - Public Appendix 1 – Non Public – by virtue of para 3 of Part 1 of Schedule 12A of the Local Government Act 1972
Executive Summary	This report seeks the approval of the Housing and Homelessness Services Portfolio Holder to acquire the freehold interest in forty-two new-build residential properties within the District. Forming part of the same development, all of the homes will meet a Planning S106 requirement. Due to the pre-contract nature of this decision and the associated commercial sensitivity, financial and site-specific information has been set out within Confidential Appendix 1.
Recommendation(s)	It is recommended: In accordance with adopted strategic housing and development objectives, it is recommended that the Council enters a Development Agreement and Contract with the house builder to acquire the freehold interest of the forty-two new-build homes for the sum disclosed within Confidential Appendix 1.
Reasons for recommendation(s)	The forty-two 'S106' affordable homes fulfil a planning requirement imposed upon the approved development to include a percentage of affordable housing under policy HOU2 of the Local Plan (July 2020). By acquiring the homes from the Developer, the Council is enabling the Planning Obligation to be fulfilled. The acquisition of the forty-two homes will meet the Corporate Plan People Priority 3 (Meeting Housing Needs) through the Council providing increased numbers of affordable homes, and by demonstrating how the Council is working with developers and landowners to bring forward

	opportunities for wider housing provision to meet the needs of our communities through shared ownership and other tenures. Opportunities will also arise through the development which are likely to contribute towards and reduce pressures on Priority 1 (Helping those in our community in the greatest need)
Ward(s)	All
Portfolio Holder(s)	Councillor Davies – Portfolio Holder for Housing and Homelessness
Strategic Director(s)	Richard Knott, Strategic Director - Housing and Communities
Officer Contact	Tim Davis Service Manager Housing Strategy and Development 02380 285899 tim.davis@nfdc.gov.uk

Introduction

1. New Forest District Council has been given the opportunity to purchase forty-two 'S106' homes from a Developer in order to meet their planning obligations as part of achieving planning permission, and as documented in a legal planning agreement. The negotiated purchase price reflects what can be paid for the homes WITHOUT GRANT, based upon current and future rental income and capital receipts that may be received in the case of homes for shared-ownership.

Background

2. As part its development programme the Council has purchased and provided a total of 78 affordable homes over the last 6 years resulting from 'S106' opportunities.
3. When private developers start looking to fulfil their S106 planning obligations competitive offers are invited from Registered Providers (including the Council) to acquire and deliver affordable homes as specified. N.B. Price expectations for S106 homes are materially below open market values being based upon their restricted use as affordable housing without Grant.

4. In March of this year the Council was invited to submit a bid to the Developer for the S106 element of this scheme that forms part of a Strategic Site within the District.
5. Following careful financial analysis and with support from Members of the Housing Development Panel¹ a conditional offer was accepted by the Developer in April 2024.
6. Since then Officers and the Council's appointed Solicitor have been progressing negotiations and checks to ensure that the proposal and package represents acceptable value for money, that the Council's interests will be protected, that the proposed terms of a legal Development Agreement for constructing the homes - and the final build and finish specification - are acceptable.

The Proposal

7. If approved the recommendation within this report will permit the Council to enter a development agreement and contract with the house builder whereby the forty-two homes will be constructed to a standard specified by the developer that has been accepted by the Council. The recommendation follows a formal valuation of the properties, detailed contract negotiations and legal due diligence checks. The homes will benefit from individual new-build warranties and are timetabled for delivery between July 2026 and September 2028 as the Developer builds-out the scheme.
8. In due course the homes for Social Rent and Affordable Rent will be allocated to households with a local connection to the New Forest District in line with the Council's Housing Allocation Policy. Homes for Shared Ownership will be offered for sale in accordance with the requirements of the S106 legal planning agreement and the Council's shared ownership policy.
9. Financial details are contained within the confidential Appendix 1 however an external RICS Valuer has confirmed that the purchase price for the S106 units is significantly below open market values.

Corporate plan priorities

10. The forty-two acquisitions will meet the Corporate Plan 'People' Objective 3 (Meeting housing needs) and indirectly assist and reduce pressures related to Objective 1 (Helping those in our community in the greatest need).

¹ Portfolio Holder for Housing and Homelessness; Portfolio Holder for Finance and Corporate; Chairman of the Housing and Communities Overview and Scrutiny Panel; Strategic Director of Housing and Communities; Strategic Director of Corporate Resources and Transformation.

Options appraisal

11. Under the terms of the S106 legal planning agreement the Developer was required to invite the District Council to submit an offer for the affordable housing element although the Council was not legally required to make an offer. Furthermore, if the Council decided to make an offer the Developer would not be duty bound to accept it; it could be refused and an offer from another Registered Provider be accepted.
12. Therefore the Council has not been under any legal obligation to make an offer for the forty-two homes, nor has the Developer been bound to accept it. Nonetheless both parties have reached a mutually accepted position where the Council is willing to purchase, and the Developer is willing to sell to the Council.
13. If the Council decided not to proceed to purchase then the Developer would need to pursue options with other Private Registered Providers. Should another willing Registered Provider not be found, or acceptable terms could not be agreed, the Developer would likely challenge the Council's HOU2 Planning Policy requirements. A situation that would undermine the Council's Affordable Housing Planning Policies and likely result in a significant reduction in the number, and the type and tenure of affordable homes being achieved. Consequences that would adversely affect the number of homes being delivered for affordable housing, and their affordability and accessibility.

Consultation undertaken

14. The proposal has been evaluated by senior housing managers and the Members of the Housing Development Panel, including the Strategic Directors of Corporate Resources and Transformation and Housing and Communities.

Financial and resource implications

15. In February 2024 the Council approved a 2024/25 budget of £18.2m for the Housing Acquisition and Development Programme, with provisional budgets of £15.2m for 2025/26 and £15.2m for 2026/27. Decisions on individual sites or properties are made by the Housing and Homelessness Portfolio Holder. The acquisitions proposed in this report will have a financial impact on the current year and the future three years as homes within the scheme reach completion.

Legal implications

16. S17 (1) (a) and (b) of the Housing Act 1985 provide statutory powers for the Council to (a) acquire land as a site for the erection of houses and (b) acquire houses, or buildings which may be made suitable as houses, together with any land occupied with the houses or buildings. The Council has therefore the legal power to make the proposed decision.
17. The contractual agreements negotiated by the Council's external specialist housing development solicitor mitigate and manage the risks and protect the Council's interests as set out in paragraphs 18-20 below.

Risk assessment

18. The nature of the procurement method for this scheme means that the detailed delivery and specification of the homes are contained within a legal Development Agreement which will run alongside a contract for the purchase of the land.
19. Informed and negotiated by the Council's external development solicitor – and based upon industry standard documentation – the Development Agreement contains comprehensive details on all aspects of the scheme, the specification, the development programme and mechanisms to protect the Council's interests in the event that unforeseen risks should arise.
20. Prior to completion, the most significant risks relate to insolvency of the Developer or delays that might arise in the development programme. In terms of insolvency an independent financial assessment of the Developer has indicated that risks are within acceptable parameters, whilst additional measures have been built into the legal agreement which will give wider protection if such a situation should arise. In terms of delays, the Development Agreement includes a programme setting out the various phases of delivery with conditions and end-stop dates which will protect the Council's interests in the event that end-stop timescales are not met.

Environmental / Climate and nature implications

21. As new-build homes all forty-two will be built to current Building Regulation standards. Due to imminent changes in Building Regulations which are expected to impact during the development period, homes within later phases have been designed and specified to be 'gas free' and constructed with Air Source Heat Pump Technology.

Equalities implications

22. Homes for Affordable Rent and Social Rent will be allocated in accordance with the requirements of the S106 legal planning agreement and the Council's Housing Allocation Policy. Homes for Shared-Ownership will be marketed and sold in accordance with the S106 legal planning agreement and the Council's Shared Ownership Policy. These policies ensure that housing is allocated to those in housing need in accordance with clear criteria.

Crime and disorder implications

23. There are no implications to consider.

Data protection / Information governance / ICT implications

24. There are no implications to consider.

Conclusion

25. The opportunity to provide the forty-two properties mentioned in this report has resulted from the Council's Local Plan HOU2 policy and will provide homes for Social Rent, Affordable Rent and Shared-Ownership tenures. Between 2026 and 2028 the scheme will make a significant contribution to the Council's own housing development targets whilst also meeting district-wide housing needs for those who cannot afford to rent or buy on the open market.

Appendices:

Appendix 1: Confidential – financial and site specific information

Portfolio holder endorsement

I have agreed to the recommendations of this report.

Sign: Cllr Steve Davies

Date: 11 October 2024

Date on which notice given of this Decision – 11 October 2024

Last date for call in – 18 October 2024