

Subject:	Rent policy for new build council homes
Date of Meeting:	15 November 2017
Report of:	Executive Director Neighbourhoods, Communities & Housing and Executive Director Economy, Environment & Culture
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Ward(s) affected:	All

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 At its meeting on 28 June 2017, the Housing and New Homes Committee asked for a report setting out the options for a new 'rent policy' for new council houses. This followed members' discussions and final decision on rent levels for the new council homes now under construction at Lynchet Close, Hollingdean, under the council's New Homes for Neighbourhoods housebuilding programme.
- 1.2 This report outlines rent options for future schemes, identifies other factors to consider in agreeing a rent policy and proposes a rent setting policy for new council homes.

2. RECOMMENDATIONS:

- 2.1 That Housing and New Homes Committee agrees the proposed principles for a rent setting policy for new council homes as set out in paragraph 3.27 of this report
- 2.2 That Housing and New Homes Committee approves a rent policy for new build homes as set out in paragraph 3.28 of this report.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Building new homes on council land is a council priority and essential if City Plan housing targets are to be met and the city's housing crisis tackled. High rents in the private rented sector make rent unaffordable for many households, who are also unable to buy. Over 21,000 households are currently on the city's Homemove social housing register and 1,800 are in temporary accommodation.

Increasing the supply of housing is a primary objective in the council's [Housing Strategy 2015](#). Actions in the strategy include:

- to prioritise support for new housing development that delivers a housing mix the city needs with a particular emphasis on family, Affordable Rent and where feasible, Social Rented housing;
- to maximise housing provided from best use of the council's Housing Revenue Account (HRA) investment, land and buildings; and
- to directly provide more council housing, such as by developing ourselves through our New Homes for Neighbourhoods programme, buying new homes off-plan or by supporting others to build and manage on our behalf.

3.2 Since 2015 the council's New Homes for Neighbourhoods programme has completed 34 council homes for rent on suitable council owned sites across the city, 139 more council homes are under construction, another 12 will be on site very shortly and many more are in the pipeline. The programme aims to deliver at least 500 new homes. Development costs of new council homes are tightly controlled with the aim of ensuring that the council obtains best value, as set out in the [report](#) to this committee on 20 September 2017.

3.3 The New Homes for Neighbourhoods programme is primarily funded from the rental income for the new council homes, which repays the borrowing required to fund most of the capital costs of development. However, building homes for rent at below market levels requires subsidy in addition to the rental income. At present, the subsidies available to finance new projects in the New Homes for Neighbourhoods programme are:

- Receipts from existing council tenants exercising their Right to Buy. The government permits retained receipts to fund up to 30% of the cost of new homes only;
- Homes and Communities Agency grant for some qualifying schemes, such as the Brooke Mead extra care scheme. HCA grant now may be less than Right to Buy receipts capped at 30% of costs and cannot be mixed with Right to Buy receipts;
- Other council receipts and grants, such as Adult Social Care's contribution towards the cost of building the Brooke Mead;
- The council could consider selling some homes outright or for shared ownership to cross subsidise rented homes, though this has not been done to date;
- The council's Housing Revenue Account can subsidise development from its capital programme or reserves. However, this is funded primarily from tenants' rents for the council's existing stock of some 11,500 rented homes.

The lower the rent level for new build homes, the greater the subsidy the development usually requires.

Rent options

Affordable Rents

3.4 Affordable Rents up to 80% market level were introduced by the government as a means to fund new rented housing association and council homes with

reduced capital subsidy, in the form of Homes and Community Agency (HCA) grant allocation or councils' retained Right to Buy receipts. The extra rent enables the housing provider to borrow more money to pay for building the home in place of the higher grant. The HCA Affordable Housing programme requires landlords in receipt of grant to charge Affordable Rents and they are commonly also set by housing associations on re-lets as well as new build homes to support their new development programmes.

- 3.5 In approving individual schemes for development, the Housing and New Homes Committee and its predecessor Housing Committee has agreed 'Affordable Rent' levels as defined in the council's Tenancy Strategy 2013. These are set at the lower of either 80% market rent or the Local Housing Allowance (LHA) Housing Benefit limit. This has meant that in practice the vast majority of rents for new council homes being set below 80% market rent.
- 3.6 Resident satisfaction surveys indicate that tenants of new build homes paying Affordable Rents consider them better value for money than tenants in older council stock paying lower Social Rents, and no tenants in the new homes have said when surveyed that they are dissatisfied with their Affordable Rent.
- 3.7 Resident satisfaction surveys of tenants of new build homes three months after they take up occupation found 80 % are very satisfied that their rent provides value for money, and 100% are satisfied. This compares to 86% overall satisfaction rates amongst wider council tenants who responded to the STAR satisfaction survey in 2016. A tenant of the new Robert Lodge blocks not receiving full Housing Benefit commented that they have been able to start clearing their debts since moving from the private rented sector to an Affordable Rent home. However it is not known how many residents have been deterred from bidding for properties due to the rent level.
- 3.8 The impact of higher rents than in older stock can be offset, to some extent, by lower energy costs from new homes built to high sustainability and fuel efficiency standards, including communal boiler systems in larger blocks and pv panels on the roof of new homes . Barratt Homes calculate that their homes are up to 55% more energy efficient than a similar sized older home, even after it has been modernised. A Darwell Court tenant reported in the recent survey of their satisfaction with their new home that their energy bills have halved since their move to a New Homes for Neighbourhoods home. Tenants of the Lynchet Close new build houses will also benefit from free electricity generated by the panels on their roof. Water efficiency measures in new homes can also reduce tenants' water bills.
- 3.9 If the programme set rents capped at LHA rates for all 500 new build homes it aims to deliver, that would only represent less than 5% of the council's total housing stock. With the Homemove choice based lettings system, applicants can choose whether to bid for a new home at a higher rent, or restrict their bidding to the hundreds of older council homes that become available for re-letting each year.

Living Wage Rents

- 3.10 In setting rents for the [Lynchet Close](#) scheme - including the first four bedroom homes in the New Homes for Neighbourhoods programme - on 28 June 2017,

Housing and New Homes Committee took into account the proximity of LHA levels for four bedroom homes to the new Benefit Cap and that a surplus is projected for the scheme. Committee set 37.5% Living Wage Rents for these eight new homes. Rents modelled on 37.5% of gross pay to a household earning the new national Living Wage at 2019 have also been modelled for the Living Wage Joint Venture approved by the council (see table below for details). Receipts from 50% of new homes being sold for shared ownership will help the Joint Venture achieve this lower rent level for the 50% rented homes.

- 3.11 There is growing support nationally for council and housing association rents to be explicitly related to income levels of tenants in low paid work - rather than to high market rents or Housing Benefit caps. In its new publication [Building Bridges – A guide to better partnership working between local authorities and housing associations](#), the Chartered Institute of Housing argues that in some areas 'Affordable Rents' are not genuinely affordable to low paid workers, do not leave them with sufficient income for their household budget and that rental policy is decided mainly by reference to government rules, without local affordability being seen as a critical factor.
- 3.12 The report recommends developing full local housing affordability frameworks, with the aim of building a profile of household incomes in the area, especially of those groups most in housing need, comparing these with the rents and prices of affordable housing available or planned, taking account of the availability of benefits, and recommending the ideal mix of products and costs to meet these needs (subject to resource availability). While the council's [Affordable Housing Brief 2015](#), [Housing Strategy 2015](#) and [Tenancy Strategy 2013](#) already largely achieve that, future rent policy for new council homes could relate more closely to actual present income levels of local people in housing need.
- 3.13 Analysis in the council's [Objectively Assessed Need for Housing: Brighton & Hove 2015](#) report estimated that around 33% of households in Brighton & Hove have an income below £20,000 a year/£385 per week. This is also now the government's Benefit Cap limit. A further third were estimated to have an income in the range of £20,000 to £40,000, with a median annual income of all households in the city of around £29,100. Austerity cuts to Housing Benefit entitlement including reduced benefit limits for under 35's and some disabled tenants are also having an impact on residents' ability to pay rent and retain sufficient for food, utilities and the rest of their household budget.
- 3.14 However, adopting Living Wage Rents as the council's rent policy for future new council homes would reduce the income available to the council Housing Revenue Account to fund other new homes or services. For the eight [Lynchet Close](#) homes, the reduction in income to the HRA of adopting Living Wage rather than LHA level rents was estimated at £1.170 million over 40 years.
- 3.15 As a further example, if the council were to build 100 new homes, ten 1 beds, forty 2 beds, forty 3 beds and ten 4 beds, and set rents at LHA rates rather than Living Wage rents, then the rental differential after management and maintenance costs could be used to pay for extra borrowing. Assuming that Right to Buy receipts could be used to fund 30% of the cost, the total extra funding could be used to build 3-4 more homes.

Target Social Rents

- 3.16 Target Social Rents are the rents at which existing council homes are re-let. Their low level, at generally less than 40% of local market rents, reflects the higher capital grants which were historically available to subsidise councils' construction costs, as well as the government's rent setting and rent increase formulae over many years. The lower level of grant and Right to Buy receipts currently available to subsidise construction costs require higher rent levels to be charged for new homes, as explained in paragraph 3.3 above.
- 3.17 In the example of the eight homes at Lynchet Close, Target Social Rents would have required an HRA subsidy of £1.023m over 40 years, in contrast to the potential for an HRA surplus of £1.373m for LHA level Affordable Rents. This would have meant £2.396m of income foregone for the HRA over 40 years.
- 3.18 Using the example above, if the council were to build 100 new homes, ten 1 beds, forty 2 beds, forty 3 beds and ten 4 beds, and set rents at LHA rates rather than target rents, then the rental differential after management and maintenance costs could be used to pay for extra borrowing. Assuming that Right to Buy receipts could be used to fund 30% of the cost, the total extra funding could be used to build 78 more homes.
- 3.19 Brand new homes have many benefits for tenants compared to older council properties. As well as having a new finish and fittings, they are designed and built to a high quality and generous modern space, equipment and amenity standards, including hardwearing vinyl flooring, energy and water efficiency, Secured by Design, private outside amenity space (garden or balcony) and, for some houses, a private parking space. There are therefore a number of grounds for charging more than Target Social Rents for new council homes.

Rent options and levels

Size of new homes	1 bedroom	2 bedrooms	3 bedrooms	4 bedrooms
Affordable/Local Housing Allowance Rent per week	£153.02	£192.48	£230.28	£339.36
37.5% Living Wage Rent per week	£147.66	£177.19	£206.72	£236.25
Target Social Rent per week				
Houses	£85.19	£88.23	£99.72	£105.02
Flats	£74.38	£83.08	£91.51	
Rent based on scheme cost per week	Would vary from scheme to scheme			

Note: actual rent figures would be set according to the rates or valuation prevailing close to letting of the homes concerned.

Rent based on scheme cost

- 3.20 Instead of adopting a rent policy to achieve consistency in rent setting, Housing and New Homes Committee could decide to set rents for each scheme based on its individual budgeted costs, to achieve no surplus or subsidy requirement over the modelled period. As outlined in the [Lynchet Close](#) and [Development costs for new build council homes](#) committee reports, however, the cost of building new homes varies by location depending on site specific costs, which for the New Homes for Neighbourhoods programme often include demolition of unused garages or offices, diversion of sewers or other utilities, dealing with contaminated land and extensive ground works on sloping sites. Unit costs also vary by size of site due to economies of scale and the programme is developing sites of various sizes from two to 57 homes, though mostly smaller sites. Development sites for new council homes are limited and constrained. Tenants might not agree it is fair to charge higher rents for, say, a new two bedroom flat at one location than for an identically sized new flat at another, just because the former site was more complex and costly to develop.
- 3.21 In addition, in order to comply with the council's [Tenancy Strategy 2013](#), cost rents would need to be capped at LHA levels for higher cost schemes but for low cost sites could also forgo the opportunity to cross subsidise rents at other schemes in the programme. The cost rent option for [Lynchet Close](#) was lower than the 37.5% Living Wage Rent that members agreed on 28 June 2017. Adopting cost rents for each individual scheme would also make viability modelling and financial planning more difficult.
- 3.22 A viability model is a tool designed to test a set of assumptions on costs, risk, and borrowing rates for a given scheme to aid decision making on whether a scheme is viable or not. Setting rents based on exactly where a viability model breaks even is a high risk option. In practice, rents are agreed before the Agreed Maximum Price (AMP) is finalised. This is so that Policy, Resources and Growth Committee can agree the budget and funding (borrowing levels, RTB receipts, reserves etc) for the scheme before the council is contractually committed to the scheme. However, after the rent level is set but before the AMP is finalised, any scheme costs could be subject to changes as more information is gathered about the site and materials needed. Therefore, if costs increased after the committee rent level decision, the risk is that the scheme would not break-even but would require a subsidy from current tenants after all as the rent set earlier in the process would be too low. In this case there would be a dilemma as to whether to return to committee to amend the rent levels or to accept that the scheme would not break-even.

Other factors to consider in agreeing a rent policy for new homes

Fairness and consistency for tenants of new homes

- 3.23 Options other than continuing to set Affordable Rents capped at LHA Housing Benefit rates would lead to tenants in new homes for which Committee has already set the rents paying higher rents for later new build homes of the same size or smaller.

Fairness for tenants of older council homes

- 3.24 Although all council homes are maintained at the government's Decent Homes Standard and the Brighton & Hove Standard agreed with council tenants and

leaseholders, the new homes built to the latest standards benefit their tenants in terms of lower utility bills as well as their high quality, as evidenced in resident satisfaction results. Council tenants in older homes may wish to feel assured that rents for new homes reflect those advantages and that their own rents are not subsidising new development.

Need for HCA rent approval, even where scheme is not HCA funded

- 3.25 The Homes and Communities Agency (HCA) approves rent levels for council funded new build schemes in order for Housing Benefit to be payable. It must confirm that the ratio of additional income to anticipated new supply for the scheme represents value for money. To date for the programme the HCA has accepted rents set at LHA rates as reasonable given the extremely high housing costs in Brighton, although it would ordinarily expect rent levels to take advantage of the full 80% of market rent levels that are available.

Future proofing

- 3.26 The proposed rent policy will need to take account of possible additional funding or borrowing which might become available to the HRA in light of changing government policy and recent announcements, and any requirements attached to them.

Proposed rent policy

Principles

- 3.27 In light of the above considerations, the following principles are proposed for a rent setting policy for new council homes:
- Rents for new build council homes should not exceed Local Housing Allowance levels in accordance with the council's Tenancy Strategy 2013;
 - Rents for new build council homes should be set above Target Social Rent to reflect their high quality, amenities, standards and energy efficiency compared to older homes built in previous decades;
 - Rents should be affordable to those in low paid employment as well as households with full benefit entitlement;
 - The amount of HRA subsidy for new homes should be minimised;
 - Rental income from new homes should support an ongoing development programme to continue to build much needed new council homes for rent on council owned land. Schemes with fewer site constraints and/or free HRA land will cross subsidise others that prove more costly to develop due to payments for General Fund land and/or greater site constraints and pressures;
 - There should be a consistent, fair and easily explainable rent policy to apply to all new build homes approved by Housing and New Homes Committee in future;

- The policy should be able to easily incorporate any funding or subsidy that might become available for any future schemes, so that consistency in rent levels is maintained.

Proposed rent policy

3.28 Rents for proposed new schemes of new build council homes will be modelled at:

- Affordable Rent levels capped at LHA rates
- 37.5% Living Wage Rent and
- Target Social Rent levels.

For each scheme officers will recommend one of these three rent options as appropriate for that scheme based on the rent principles above, for Housing and New Homes Committee to agree the rents when it approves the scheme.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 Four main rent options are set out in the body of the report with a discussion of their implications.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Extensive consultation was undertaken to develop the city's Housing Strategy and as part of the Fairness Commission which both identified affordability of housing as a key challenge facing the city. The fairness commission report states *“residents identified high rents as particularly problematic for young people, families and those on low incomes although a growing number of key workers and professionals are also struggling to afford to live in the city”* (page 18 [Fairness Commission report](#)).

5.2 The New Homes for Neighbourhoods engages widely with residents, tenant and resident associations and local stakeholders in the community, not only in the vicinity of new council housing developments, but more widely through our New Homes for Neighbourhoods Updates which are circulated to tenant and resident associations, councillors and other stakeholders and through the council tenant and leaseholder magazine Homing In. An explanation on how rents have been set for new homes was included in the January 2016 edition of New Homes for Neighbourhoods Update.

5.3 Residents of new homes are asked about their satisfaction with rent levels as outlined in the body of this report.

6. CONCLUSION

6.1 This report explores rent options and their implications, outlines considerations such as fairness to other council tenants in both new and older council homes and proposes a rent policy which meets key principles and will achieve consistent, clear and fair rents for new build council homes.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The financial viability modelling sets out to show whether a given scheme can pay for the borrowing required by using the new rental stream, (net of service charges, management, maintenance, major repairs and voids costs) over a 60 year period. Assessing the project viability over a 60 year period not only matches the life of the asset but also reduces the need to use existing tenants' rents to support the project. Once the Rent Policy is agreed, the financial model will test viability of the rent options contained within the policy for each new build scheme and the results will be presented to Housing and New Homes Committee enabling Committee to set rents accordingly.
- 7.2 When setting rents for new build homes, members need to consider the needs of current tenants, tenants of the new homes and also the longer term benefits to the HRA and the aim of increasing housing supply in the City. Setting rents at the lower of LHA or 80% of market rents is likely to mean there is a surplus for the HRA and therefore an increase in the overall income which could be spent on more services for tenants or further new build schemes. Setting rents at a level which requires a subsidy from current tenants will constrain the amount the HRA can spend on tenants and will not enable any contributions to new build schemes.
- 7.3 Where rents could be set at LHA (or 80% market rent) level and are set at a lower level (such as living wage rent), the council are foregoing this extra income which may in some cases have come from the government in the form of welfare benefits.
- 7.4 The examples at paragraph 3.15 and 3.18 gives an illustration of the extra homes that could be built as a result of setting rents at LHA levels rather than living wage or target social rent levels for one hundred homes.
- 7.5 It is not recommended that rents are modelled on the basis of the cost of the scheme (ie to produce a break even position) as this presents a risk that if costs of the scheme escalate, the final costs of development could exceed the initial costs modelled and place a burden upon HRA resources or require committee to approve higher rents. (as outlined in para 3.22)

Finance Officer Consulted: Name Monica Brooks

Date: 2/11/17

Legal Implications:

- 7.6 Section 24 (1) of the Housing Act 1985 provides that a local housing may make such reasonable charges as they may determine for the tenancy or occupation of their houses. The use of the word "may" in section 24(1) confers a discretion on the council. The law requires a discretion to be exercised reasonably, which involves taking into account relevant considerations, ignoring irrelevant ones and otherwise acting objectively. There is no legal objection to the development of a policy to assist in the exercise of that discretion. The policy would constitute a

relevant consideration. Policies should be kept under review to ensure that they remain fit for purpose and relevant.

- 7.7 The wording of section 24 confers a wide discretion on the council to fix its rents, although the discretion is subject to the duty to prevent a debit balance on the HRA. Section 24(1) is drafted in the same terms as earlier legislation, such as the Housing Act 1925, Housing Act 1936 and Housing Act 1957, so cases decided under those Acts are relevant to determining the breadth of the council's discretion in fixing rents for the new properties. Case law has determined that the council can properly charge different rent levels for similar houses in the same area, and even different rents for identical accommodation.

Lawyer Consulted:

Name Liz Woodley

Date: 01/11/17

Equalities Implications:

- 7.8 Affordability of new and existing homes is a key issue highlighted at both a national and local level and particularly affects those on lower incomes (see point 5.1 of this report).

Sustainability Implications:

- 7.9 Higher sustainability standards for new homes can reduce energy costs for residents compared to older homes as outlined in this report.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms

None