

# **CABINET**

**8 MARCH 2016**

**PRESENT:** Councillor N Blake (Leader); Councillors J Blake, A Macpherson, H Mordue, C Paternoster and Sir Beville Stanier Bt.

**IN ATTENDANCE:** Councillors C Adams, Hewson and Stuchbury.

**APOLOGY:** Councillors S Bowles

## **1. MINUTES**

RESOLVED –

That the Minutes of 9 February, 2016, be approved as a correct record.

## **2. PRIVATE SECTOR HOUSING REGENERATION POLICY**

Under the Regulatory Reform (Housing Assistance) (England and Wales) Order, 2002, local authorities could adopt policies that enabled local discretionary spend of disabled facilities grants (DFG) budgets, (in addition to the provision of the mandatory DFG scheme outlined in in the Housing Grants, Construction and Regeneration Act, 1966), as well as discretionary grant and loan schemes to regenerate private sector housing stock in their area.

Cabinet considered a report which summarised the existing private sector housing grant and loan schemes currently offered by AVDC and suggesting additional and alternative schemes that might be adopted to better enable regeneration of the private sector housing stock in the Vale. The policy focussed particularly on assisting target groups of residents including older people and vulnerable groups (e.g. those on low incomes living in poor quality housing). It also suggested the provision of a landlord loan scheme to help improve conditions in rented private sector housing stock.

It was reported that national, regional and local policies and objectives provided AVDC and its partners with a broad strategic framework within which to work. These included a focus on growth and investment in the private sector as key to increased choice, access and better standards.

Government had advised that it was important that the private rented sector was seen as an attractive alternative to owner occupation and had recommended a number of measures to improve and develop the sector. These included simplifying the regulatory framework, raising standards by providing councils with increased flexibility to enforce housing law, regulating agencies, longer tenancies and increased housing supply.

The suggested new policy focussed on the provision of grants and loans to support private sector housing regeneration. Alongside this, AVDC used enforcement powers under the Housing Act, 2004, to raise standards in the private rented sector and to deal with rogue landlords. AVDC also operated mandatory and additional licensing schemes for houses in multiple occupation which aimed to improve standards and protect vulnerable tenants living in this type of housing stock. The Private Sector Housing Regeneration Policy sat below, and contributed to, the objectives outlined within the AVDC Housing and Homelessness Strategy 2014-17. Private sector housing stock included houses in private ownership and occupation as well as privately rented properties.

The private housing sector played a valuable role in the housing market in the Vale, comprising 61,500 of the 77,000 total dwellings in the Vale. At the time of the last stock condition survey in 2007, 16.8% of private sector housing stock did not meet a “decent” standard.

Poor housing conditions in the Vale were associated with households in social and economic disadvantage. This affected the ability of households to repair and improve their dwellings. At the time of the survey, 25.6% of all households living in non decent housing were elderly. Economically vulnerable households accounted for 33.8% of all households living in non decent housing. In the private rented sector, 39% of vulnerable households were living in non decent housing.

Aylesbury Vale had an aging population with increasing numbers of people living with a long term illness or disability. At the last census in 2011, 68,000 people in Buckinghamshire reported having a limiting long term illness or disability (an increase of 12.4% from the previous census). There was a significant link between housing quality and health. Factors such as damp and mould, overcrowding and excess cold were associated with long term conditions such as heart disease, stroke, respiratory disease and mental illness as well as an increased risk of mortality.

To use the powers contained within the Regulatory Reform (Housing Assistance) (England and Wales) Order, 2002, the local authority had to adopt and publish a policy setting out how the powers would be used. The Housing and Homelessness Strategy 2014-17 and the Private Sector Housing Regeneration Policy fulfilled this obligation. The Order contained important protections relating to the giving of assistance, whether it was given as a grant, loan or another form of help.

Currently AVDC offered the following private sector grant or loan assistance:-

- Minor works grant up to £2,500.
- Mandatory disabled facilities grant up to £30,000.
- Empty homes loan.
- Flexible home improvement loan (FHIL).

It was felt that the Minor Works grant should be replaced by an Essential Repairs Grant of up to £10,000. In addition, the following grants and loans would be offered alongside the mandatory DFG, Empty Homes Loan and FHIL:-

- Discretionary DFG top-up of up to £20,000.
- Relocation Grant up to £30,000.
- Urgent Hospital Discharge Adaptations Grant up to £10,000.
- Landlord Loan Scheme up to £10,000.

In summary, DFG funding was provided jointly via the Better Care Fund at Buckinghamshire County Council and AVDC capital spend budgets.

Since 2011/12, there had been a year on year underspend of AVDC capital funds on mandatory DFGs. The reasons for this were not due to decreased demand (in fact there was an increasing demand for DFGs) but were in part due to the lack of flexibility

AVDC currently had available to meet the differing needs of applicants and facilitate the spend of the budget.

In future years it would be imperative that AVDC had flexibility and discretion within the grants process to facilitate spend and ensure that vulnerable tenants in private sector housing were able to access support. The proposed policy set out an increased range of discretionary grant and loan proposals to better meet the needs of those in the relevant target groups. This would require some re-allocation of capital funding.

The introduction of additional discretionary grants alongside the mandatory DFG would increase the range of grant options available and allow AVDC to better tailor grant support to meet individual needs. It was proposed that mandatory DFG funds and AVDC capital funds allocated for DFG spend be maintained in one budget stream, funding mandatory DFGs, Discretionary DFG Top-up, Relocation Grants and Hospital Discharge Urgent adaptation Grants.

In order to provide a reasonable level of funding for the new Essential Repairs Grants, it was agreed that in addition to the £30,000 budget previously allocated to Minor Repairs Works, £50,000 of the capital funding allocated to DFGs should be re-assigned to Essential Repairs Grants, increasing the total grant funding available to £80,000. In addition it was felt that the historical £100,000 capital fund underspend should be used to establish a landlord's loan scheme. Accordingly, it was,

RESOLVED –

- (1) That the contents of the Private sector Housing Regeneration Policy be noted.
- (2) That approval be given to a discretionary approach to the spend of the DFG budget to widen the grant schemes that were available from solely Mandatory DFG to Mandatory DFG, Relocation Grants, Discretionary DFG Top-up and Urgent Hospital Discharge Adaptations Grants.
- (3) That approval be given to the re-allocation of £100,000 underspent capital budget to set up a landlord loan scheme in the Vale.
- (4) That approval be given to the establishment of an Essential Repairs Grant (to replace Minor Works Grants) and to the allocation of £50,000 of capital budget spend towards this scheme.

### **3. WATERSIDE NORTH**

Cabinet considered a report seeking approval to the appropriation of the land at Waterside North (Phase 1) from its existing car parking use to use for town planning purposes to enable Phase 1 of the project to proceed. The purpose of the appropriation, which would be made pursuant to Section 122 of the Local Government Act, 1972, would be to engage section 237 of the Town and Country Planning Act, 1990, which would convert any third party rights, which might otherwise inhibit redevelopment, into a right to compensation which the Council would then be required to meet. A plan showing the land concerned was appended to the Cabinet report. The report to Cabinet also highlighted the outcome of an independently commissioned Rights of Light Survey and how any such claims might be dealt with.

Following a successful public consultation undertaken in the Summer of 2014, outline planning permission had been granted for the redevelopment of land within the Council's ownership at Exchange Street Car Park, to provide a mixed use scheme of up to five new café/restaurant units on the ground floor, with apartment accommodation on three levels above, and a new public square (Ref: 14/01794/AOP).

Following a tender exercise to find a development partner for the delivery of Phase 1 of the Waterside North scheme, full Council had approved the appointment of Durkan as its development partner to build out the scheme and to take a 150 year ground lease of the residential element on completion of the development. The land, which currently remained in the Council's ownership, was being taken out of its existing use as a temporary car park and its proposed redevelopment would promote and improve the economic, social and environmental wellbeing of Aylesbury town centre.

Cabinet was advised however that there were third party rights affecting the land which, if the land was not appropriated for planning purposes, might otherwise inhibit the carrying out of the proposed redevelopment. A detailed examination of the Council's titles had been carried out to identify third party rights insofar as these were documented. A physical examination had also been carried out to identify any subsisting third party rights which might not have been documented. A Rights of Light Survey had also been carried out, the details of which were included in the confidential section of the Cabinet report.

Notwithstanding the appropriation, officers would continue to take all possible steps to identify all third party rights affected by the appropriation and seek negotiated solutions which, so far as was reasonably possible, would minimise any detriment to the enjoyment of any affected properties.

Section 122 of the Local Government Act, 1972, enabled a principal council to appropriate for any other authorised purpose any land which belonged to the Council and which was no longer required for the purpose for which it had previously been held.

Section 237 of the Town and Country Planning Act, 1990 (as amended) (Power to Override Easements and Other Rights), stated that the carrying out of building work or use of the land which had been acquired or appropriated by a local authority for planning purposes, was authorised if it was done in accordance with a planning permission notwithstanding that it involved interference with any third party right (other than rights belonging to public utilities).

Because the unilateral extinguishment of third party rights engaged the First Protocol of the Human Rights Convention (no-one shall be deprived of his possession except in the public interest), and Article 8 of the Convention (the right to respect for private and family life, home and correspondence), Cabinet was required by the Human Rights Act, 1998, to have appropriate regard to those implications in any decision to appropriate. In this case it was not considered that the extinguishment of these third party rights would affect anyone's enjoyment of their home and any extinguishment of other third party rights could be adequately compensated in financial terms.

Engagement of Section 237 of the Town and Country planning Act, 1990, following appropriation of the land to planning under Section 122 of the Local Government Act, 1972, involved the Council in potential liability to financially compensate any third party suffering actual loss as a result of the extinguishment of their rights. Such compensation would be assessed by the Upper Tribunals Land Chamber if not agreed. As mentioned previously the details of the independently commissioned Rights of Light Survey were submitted as part of the confidential Cabinet agenda, including the financial implications. This information was taken into account in reaching the decisions referred to below.

RESOLVED –

- (1) That pursuant to Section 122 of the Local Government Act, 1972, (as amended), approval be given with immediate effect, to the appropriation of the land shown

edged red on the plan attached to the Cabinet report from its existing use as a temporary car park and purposes associated therewith to use for town planning purposes to facilitate its redevelopment to provide a mixed use scheme of up to five new café/restaurant units on the ground floor, with apartment accommodation on three levels above and improvements to the public realm in accordance with an outline planning permission granted in February, 2015 under reference 14/1974/AOP or any other planning permission varying or replacing the same.

- (2) That the position with regard to the Rights of Light Survey contained in the confidential section of the agenda be noted.

#### **4. EXCLUSION OF THE PUBLIC**

RESOLVE –

That under Section 100(A)(4) of the Local Government Act, 1972, the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in the Paragraph indicated in Part 1 of Schedule 12A of the Act:-

Waterside North (Phase 1) : Rights of Light Survey (Paragraph 3)

The public interest in maintaining the exemption outweighed the public interest in disclosing the information because the report contained information relating to the financial or business affairs of organisations (including the authority holding that information) and disclosure of commercially sensitive information would prejudice negotiations for contracts and land disposals/transactions.