

REPORT TO CABINET MEMBER FOR DECISION

Open		Would any decisions proposed :		
Any especially affected Wards	Operational	(a) Be entirely within cabinet's powers to decide YES		
		(b) Need to be recommendations to Council	NO	
		(c) Be partly for recommendations to Council and partly within Cabinets powers –	NO	
Lead Member: Cllr Lawrence E-mail: cllr.adrian.lawrence@west-norfolk.gov.uk		Other Cabinet Members consulted:		
		Other Members consulted:		
Lead Officer: Nikki Patton E-mail: Nikki.patton@west-norfolk.gov.uk Direct Dial:01553 616726		Other Officers consulted: Ray Harding & Duncan Hall, Lorraine Gore & Dale Gagen		
Financial Implications YES	Policy/Personnel Implications NO	Statutory Implications NO	Equal Impact Assessment YES: Pre-screening	Risk Management Implications NO
Date meeting advertised: 23 rd September 2015		Date of meeting decision to be taken: 30 th September 2015		
Deadline for Call-In: 7 th October 2015				

Affordable Housing Investment (Nar Valley Phase two- Shared Equity)

Summary

This report covers the proposed criteria to be used for the shared equity units secured by the Council at the Nar Valley Phase two development. This proposal follows a report to Cabinet on 28th Jan 2013 where it was agreed that the Council would create shared equity affordable housing model as part of affordable housing delivered through the planning system. The Council successfully completed the shared equity unit in Brancaster in 2014 under the terms proposed in the report to Cabinet on 28th Jan 2013.

The eligibility criteria and mechanisms under which the unit in Brancaster was secured were particular to the circumstances for that area. This report details changes to the criteria for qualifying occupiers and the mechanism for securing the units. Firstly, given the significant difference in house prices and affordability ratios in the north of the Borough it is proposed that additional preference is given to those with a household income of less than £39,442. Secondly an alternative mechanism of securing the units by way of a charge is adopted for the shared equity units at Nar Valley as these units are not affected by a statutory instrument which constrains future resale.

This report sets out an interim framework in which applicants for shared equity properties at Nar Valley Phase two are assessed. A full report to Council setting out more detailed criteria consistent with the criteria in Appendix A along with the expectations on developers will follow.

Recommendation

To agree the shared equity eligibility criteria attached at Appendix A and the additional mechanism for securing shared equity units (by way of charge) outlined in this report.

Reason for Decision

To ensure that on site affordable housing provision continues and is available to those who are eligible and in housing need, and that the most effective and appropriate mechanism to secure the unit(s) is used

Background

The previous report to Cabinet (28th Jan 2013) detailed that the joint income threshold for qualifying purchasers was £60,000 and a criteria requiring both a borough local connection and further local connection with Brancaster was also applied. The additional layer of connection criteria to Brancaster was applied to take account of the high levels of second home ownership where a high proportion of properties that become available on the market are purchased as second homes. Further, to comply with statutory provisions surrounding rural affordable units the Brancaster unit was secured by way of a lease, with the Council obtaining the freehold. This is not the only mechanism available to the Council to secure shared equity units.

Aims

The overall aims are to ensure that:

- A framework exists in which applicants are assessed openly and fairly in a consistent manner
- The shared equity units are accessible to households in need of intermediate housing on a wide range of incomes; and
- A formal decision making process is followed.

In some parts of the borough such as King's Lynn town a household income of £60,000 would permit a household to buy on the open market. However, in areas such as Brancaster this would not be sufficient to enter the market. As such flexibility within the eligibility criteria which takes account of the differing house price to affordability ratios in the borough is required to ensure that shared equity units are available to those who cannot have their housing needs met by the market.

Shared Equity Criteria Proposal

In keeping with national eligibility criteria contained within the Homes & Communities Agency Capital Funding Guide for intermediate affordable housing products such as that of shared equity a joint income threshold bar of £60,000 will continue to be applied. However, it is proposed that a further income threshold consistent with the income threshold contained within the Council's Housing Allocation policy is applied. This will ensure that preference is given to those with a joint household income of less than £39,442.

Further, in keeping with the CLG's Allocation of accommodation: guidance for local housing authorities in England published in June 2012 and criteria in the HCAs capital funding guide for accessing intermediate products, it is proposed that

preference is also given to military personnel and existing social housing tenants. The inclusion of such criteria gives preference to military personnel whose employment requires them to be mobile and therefore are likely to be at a disadvantage by local connection requirements and provides existing social housing tenants with the opportunity to purchase a home of their own potentially freeing up an rented home for those in need.

In addition to this it is proposed that preference is given to those with local connection criteria which is consistent with the Councils allocation policy ie have lived in borough for 3 out of the last 5 years. Full details of the proposed criteria are contained within Appendix A.

All possible purchasers identified by the developer will be checked by the Homechoice manager to ensure that the purchaser meets the eligibility criteria before proceeding with the sale.

Securing the units

In areas that fall outside of designated rural protected areas a lease is not required to secure the Councils equity share. When securing shared equity units in rural areas that fall within The Housing (Right to Enfranchise) (designated protected areas) (England) order 2009 a lease is required to comply with the statutory provisions. For units delivered in areas not listed in the order ie Nar Valley the Councils equity share can be secured by way of a charge on the property. At the point of sale between the developer and qualifying purchaser the purchaser enters into a legal charge in favor of the Council securing the remaining equity ie difference between open market sales value and build costs. This legal charge will take priority immediately after the first mortgage securing the advance of the initial amount. It is intended to ensure that, if the purchaser sell on the open market, the Council will be able to recover the affordable housing element of the equity.

Qualifying purchasers will be free to sell on the open market at any time, but if they do so they will have to pay the Councils equity share of the **then** open market value of the property to the Council, limited to the net proceeds of sale.

Qualifying purchasers will also have the option to purchase further tranches of the equity, if they so wish. The Council equity share can remain for the duration of the initial mortgage term ie 25 years or possibly 35 years with agreement by the Council. All remaining equity will be repayable when upon completion of the term of the mortgage or at the point of sale, whichever is the soonest.

Default

In the instance of purchaser defaulting upon the mortgage the mortgage company will take possession of the property as first charge holder. When the property is disposed the mortgage company will recover their loss first and the remainder will be paid to the Council up to the percentage equity held under the second charge. Where the property has negative equity below the amount held under the primary mortgage the Council would not receive any monies. However, given that the equity is secured by the Council as part of the planning obligation the cost to the Council is nil.

Risks & restrictions

Where units are secured by way of a lease as the freeholder the Council is responsible for the building insurance. The Council will need to insure the dwelling and recover this cost annually from the leaseholder. Provisions requiring the

leaseholder to reimburse the Council for this cost are contained within the lease. Where the units are secured by way of a charge ie in non rural areas the Council is not the freeholder and therefore are not responsible for insuring the building. However, given that the Council have a financial share in the property there is a requirement at the time of sale for the owner to keep the building insured.

Policy Implications

Policy CS09 of the Councils adopted Core Strategy states that affordable housing is required to deliver a tenure mix of 70:30 rented to shared ownership or other forms of intermediate tenure. The shared equity product would meet the definitions of 'other intermediate' tenure and meets the definitions of affordable housing as defined in the NPPF. It is not intended that the policy is changed in respect of this tenure split.

Financial Implications

There are no up front costs to the Council. There is, however the opportunity of future equity gain to be re-invested in affordable housing. Whilst there are no costs associated with registering the charge as all costs are covered by the developer and no ground rent on the unsold equity there is the opportunity for the capital(including any capital uplift) to be collected by the Council on future sale of the property.

Staffing Implications

none

Statutory Considerations

None

Equality Impact Assessments (EIA's)

A pre-screening report has been completed and is attached as Appendix B.

Signed:

Cabinet Member for

Date

Qualifying Occupancy for shared equity units at Nar Valley Phase two

1.0 Shared Equity

Shared Equity is aimed at helping people in housing need who are unable to purchase a property on the open market.

In order to be eligible to purchase a property under the proposed shared equity scheme, applicants must have a household income of less than £60,000 and be unable to purchase a property suitable to meet their needs (as their only and principal home) on the open market in King's Lynn.

Applicants are primarily expected to be first time buyers, though some applicants who own or have previously owned a home may be eligible - please see section 1.5 below for further details.

Applicants are not expected to under-occupy shared equity properties by more than 1 bedroom at time of purchase except in exceptional circumstances

Following initial assessments by the Developer, it is required that the developer conducts a further detailed assessment of individual applicants to ensure that they meet all eligibility criteria. Where there are long delays between initial application and exchange of contracts, the developer must ensure that applicants continue to meet the eligibility criteria, as their circumstances may have changed (for example, an applicant may have changed jobs or formed a partnership). All applicants must be approved by the Local Authority before proceeding with the sale.

For clarity the Local Authority is the Borough Council of King's Lynn & West Norfolk.

1.1 Applicant Priority (Qualifying Criteria and Local Connection Criteria) Preference will be given in the following order;

- Existing social housing tenants within the borough of King's Lynn and West Norfolk and Military Personnel* with a household income of less than £39,442
- Applicants with a local connection to the borough of King's Lynn and West Norfolk as defined in the Guide to West Norfolk Homechoice and a household income of less than £39,442

- Existing social housing tenants within the borough of King's Lynn and West Norfolk and Military Personnel and with a maximum household income of £60,000*
- Other first time buyers with a household income of less than £39,442
- Other first time buyers with a maximum household income of £60,000

***MILITARY PERSONNEL**

MOD personnel will be prioritised for shared equity where:

- They have completed their basic (phase 1) training and they are one of the following:
 - Regular service personnel (including Military Provost Guard Service, in the Navy, Army and Air Force);
 - Clinical staff (with the exception of doctors and dentists);

- MOD Police Officers;
- Uniformed staff in the Defense Fire Service

- They are ex-Regular service personnel who have served in the Armed Forces for a minimum of six years, and can produce a Discharge Certificate (or similar documentation) as proof, where they apply within 12 months of the date of discharge from service; and discharged with the last five years.
- They are the surviving partners of Regular service personnel who have died in service, where they apply within 12 months of the date of being bereaved

There will be some service personnel such as the Gurkhas and those from Foreign and Commonwealth countries that qualify under the criteria but do not have indefinite leave to remain (ILR). A Gurkha is guaranteed ILR on completion of their term of service but no such guarantee applies to FCO personnel. Immigration status should be taken into account by the developer in deciding whether an applicant can sustain the costs of home ownership. The Authority would encourage the developer to highlight this in marketing material in order to manage the expectations of groups without ILR.

LONG SERVICE ADVANCE OF PAY

The MOD offer their personnel a loan to assist with the costs of buying a house. This loan is called Long Service Advance of Pay and cannot exceed £8,500. LSAP can be used in conjunction with Shared Equity as long as the LAs interest has priority over the loan.

Prior to 01 October 2008 LSAP was required to be secured through a charge on the property purchased. However, from 01 October 2008, the MOD has removed this requirement from all properties purchased after that date with the assistance of LSAP. The change was implemented retrospectively, and the charge will be removed from all relevant property titles at the land registry in due course. Where the LSAP has already been converted to a crown debt, the charge will remain. Any queries in respect of this change should be directed to the MOD.

1.2 Joint Tenants

In the case of joint tenants where only one tenant qualifies, the purchase can proceed in the name of the qualifying tenant provided both tenants surrender the joint tenancy and vacate the tenanted property on completion of the sale. In these circumstances the Local Authority should be satisfied that the non-qualifying tenant is either intending to live with the qualifying tenant or has identified alternative private living accommodation suitable for their housing needs.

1.3 Joint Applicants

An eligible applicant who wishes to buy a home with someone else can only proceed on the condition that all joint applicants become joint owners. Although joint applicants need not all be an RP tenant, or other priority buyer, the person(s) must have their financial status assessed by the developer and agreed by the Authority.

Anyone joining in the application who already owns or part owns a home must sell it at the time of jointly buying through shared equity.

A sole qualifying applicant wishing to purchase jointly may only proceed on the condition that they are to be a joint legal owner of the property. A deed of trust providing rights of occupation for a qualifying applicant is unacceptable as an alternative to becoming a joint legal owner.

An RP tenant qualifying for the programme may have a partner who does not want to join in the application. The application can proceed in the sole name of the qualifying applicant provided the current landlord gains vacant possession of their current property *and* there is no obligation to re-house the partner.

1.4 Income and Assets

1.4.1 £60K is the maximum household income threshold. Only in exceptional circumstances will the Local Authority consider applications from households with incomes above the maximum threshold. Where the developer consider cases are exceptional they are required to prepare a robust business case setting out why the threshold should be waived and submit this to the Local Authority.

1.4.2 Capital, access to that capital and any income generated by it will be taken into account when assessing their eligibility for the shared equity property. However, any lump sums paid to eligible members of the armed forces as a result of illness or injury are to be disregarded when assessing eligibility and sustainability – please see section 2.1.2 (Shared Ownership Eligibility) of the Homes & Communities Capital funding guide. Please note that the above applies to one off lump sums only and not to other payments, such as pensions, which are still classed as income.

‘Access to capital’ as detailed in the above paragraph means that applicants will be expected to liquidate what capital assets they may have. Capital assets include savings, bonds, shares and any other financial investments.

1.4.3 Applicants must be able to afford their purchase, and sustain their housing costs. The developer must undertake appropriate checks on the applicant to ensure that they are able to do this. The mortgage on the property must be a repayment mortgage and the term should not take the applicant beyond the state retirement age up to maximum age of 70. It is expected that standard term of 25 years will apply, however this may be extended to 35 years by agreement of the Council. As part of this process, the developer will also need to check the applicant's immigration status (see section 1.6).

1.4.4 All applicants should seek independent financial advice before proceeding with an application.

1.4.5 It is the applicant's responsibility to notify the developer and Local Authority of any changes to their circumstances after the application details have been checked by the Developer and Local Authority.

1.5 Existing Owners

1.5.1 Owner occupiers, including existing shared owners, can, in exceptional cases, have access to the scheme subject to the following conditions:

- That they meet the general eligibility criteria for the scheme, that is that the annual household income is no more than £60,000 and are otherwise unable to afford to purchase a property that is suitable for their needs without assistance;
- Each application will be assessed on its individual merits by the Local Authority;
- Existing home owners must have written support from the relevant local authority that the applicant has a housing need before being accepted onto the scheme. It is for the local authority to determine how best to make such assessments of housing need and determine their own processes which are likely to be most responsive to their local housing markets; and

Existing owners/shared owners who are deemed eligible in accordance with 1.5.1 above are required to have already sold their property or sell their property at the same time as buying through Shared Equity.

Requests to waive the requirement to sell an existing property will normally be denied unless there are truly exceptional circumstances, such as explained above.

Requests to waive the requirement to sell existing properties in the following circumstances will normally be denied:

- Second homes;
- Holiday homes;
- Homes abroad; and
- Homes in negative equity

It is the LAs opinion that the above properties should be sold before it is asked to help someone purchase a property intended to be the applicant's main residence.

1.6 Immigration Act Status

People accessing shared equity properties are required to demonstrate that they can afford and sustain home ownership in the longer term.

Those applicants who are subject to immigration control (i.e. who require leave to enter or remain in the United Kingdom under the Immigration Act 1971) are less likely to be able to satisfy this requirement unless they have indefinite leave to remain in the UK.

However, there is nothing which legally prevents individuals subject to immigration control but without indefinite leave to remain from accessing Shared Equity, provided that they fulfil the usual requirements detailed above. If such an applicant can demonstrate their ability to sustain their home ownership obligations, it is likely to be discriminatory to deny them access to the product.

The developer and LA may wish to take the view that if a reputable mortgage company is willing to provide finance for the purchase then the individual is considered good security and therefore should be allowed access to the scheme.

The developer must adopt a case by case approach and is responsible for the decision as to whether the individual in question qualifies for Shared Equity subject to the criteria set out above and gaining final approval from the LA before proceeding with the sale.

Applicants must note that the Local Authority would expect that assessment of income would not wholly rely on self-certification.

1.7 Local Authority Approval

Before proceeding with the sale all applicants must be approved by the Local Authority (at the LA discretion) to ensure that they meet the above mentioned qualifying criteria. It is therefore necessary that the developer provides full details to the Local Authority on the proposed purchaser. Please note that this information should only be provided to the Local Authority for approval once the applicant is in receipt of a mortgage offer. For clarity the Local Authority consider 3 months to be a reasonable time to obtain a mortgage offer.

The developer must also be able to provide the Local Authority (on request) with full details of all enquiries made in relation to the shared equity unit and reasons for not proceeding with applications. In the event that one or more applicants meet with the above qualifying occupancy and the same preference category specified in 1.1, the sale should proceed with the applicant that is in receipt of a mortgage offer first, providing that the applicant meeting the highest preference category has been given 3 months to obtain a mortgage offer. In the event that the sale is unable to proceed the developer should contact the previous applicant to make them aware that the property is still available.

1.8 Appeals

Appeals against a decision must be made by the applicant to the Borough Council of King's Lynn & West Norfolk in writing within 21 days of the decision being made. All appeals will be considered by the Homechoice Manager within 28 days of receipt. All responses will be provided in writing.

Contact details

Please provide all details referred to above to the Homechoice Team at the Borough Council of King's Lynn & West Norfolk.

Housinghomechoice@west-norfolk.gov.uk

Tel: 01553 616678

Title/description of service/policy
Pre-Screening Equality Impact Assessment

Borough Council of
King's Lynn & West Norfolk



Question	Answer	Decision	Comments
<p>1. Does this policy/service impact on internal/external customers differently according to their different equality communities, for example, because they have particular needs, experiences or priorities?</p>	No	Yes/Not sure - Impact assessment required No - impact assessment not required	
<p>2. Is there any reason to believe that staff or customers could be affected differently by the proposed policy/service according to their equality community, for example in terms of access to a service, or the ability to take advantage of proposed opportunities?</p>	No		
<p>3. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the council, for example because it is seen as favouring a particular community or denying opportunities to another?</p>	No		
<p>4. Could this policy/service be perceived as impacting on communities differently?</p>	No		
<p>5. Is this policy/service rigidly constrained by statutory obligations?</p>	No		
<p>6. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?</p>	Yes		The policy is designed to assist people who can't access market housing.
<p>Assessment completed by: Name: Nikki Patton Job title: Housing Strategy Officer</p>	<p>Date: 23rd Sep 2015</p>		