

Draft Tenancy Strategy 2019

1 Introduction

- 1.1 The Localism Act 2011 requires local housing authorities in England to prepare and publish a 'Tenancy Strategy' setting out the matters to which the registered providers (RP's) of social housing for its district are to have regard in formulating policies to-
- The type of tenancies they grant
 - The circumstances in which they will grant a tenancy of a particular kind
 - Where they grant tenancies for a fixed period
 - The circumstances in which they will grant a further tenancy towards the end of an existing tenancy.
- 1.2 In Amber Valley a tenancy strategy was published in 2012 and, although much of the document remains relevant, there have been legislative changes and changes in housing association practices that require the document to be updated. The Localism Act 2011 requires tenancy strategies to be reviewed and where appropriate modifications made.
- 1.3 This tenancy strategy will set out the council's position on all aspects of affordable housing tenure. The tenancy strategy will link into the Council's housing strategy, which will set out the council's wider ambitions for housing.

2. Objectives

- 2.1 Within the Council's "Housing Strategy 2015-20" there is an objective to "**maximise the delivery of new affordable housing**". This objective must be aligned to providing affordable housing that is best able to meet the housing requirements of people on different incomes whose needs cannot be met without assistance. The tenancy strategy should therefore have distinct objectives that will help deliver:
- homes that people can afford
 - homes that vulnerable people can access
 - homes that help provide mixed and sustainable communities
 - homes whereby people feel secure

3 Scope of the Tenancy Strategy

- 3.1 The objectives of the tenancy strategy will in the main be focused around the areas prescribed in Section 150 of the Localism Act 2011 (paragraph 1.1). In Amber Valley types of tenancies that are provided by Housing Associations will be discussed in section 5 and include:
- Assured tenancies
 - Starter tenancies
 - Fixed Term tenancies
 - Rent to Buy
 - Equitable (under 18 years old)
 - Licence or non-secure tenancy

- 3.2 The Council does not intend to dictate to registered providers instructions on what tenure their stock should be and how they should manage their properties. The Council values the input housing associations provide to ensure that new affordable housing is both deliverable and sustainable, which often involves a mix of tenure for different schemes. **The Council does however consider that meeting the housing needs of people in Amber Valley who require assistance is of paramount importance and therefore each new affordable development should meet the affordable housing needs identified in the Strategic Housing Market Assessment (SHMA). The Council will expect to have discussions with housing associations and Private Sector developers to agree a mix of affordable housing before support for an affordable housing development is given.**
- 3.3 The Emerging Local Plan identifies “a need to apply the analysis on the ‘SHMA Addendum Update’ in considering proposals for new housing development, in order to seek to secure an appropriate mix and type of provision to meet identified needs. The most appropriate mix on a site by site basis will however depend on local circumstances, including any more local information in the particular part of the Borough where development is proposed”. (Emerging Local Plan).

4 **New Affordable accommodation in Amber Valley**

4.1 Since 2012 there has been nearly 500 new affordable properties delivered in Amber Valley. Being a non-stock holding authority all the new affordable properties have been delivered by housing associations. Futures Homescape have delivered most of the affordable units (250) although significant numbers have also been delivered by Derwent Living (38), Nottingham Community Housing Association (96) Waterloo Housing (formerly Dales Housing) (60) and Together Housing (formerly Chevin Housing) (54).

4.2 Housing associations deliver new affordable homes through two main routes, either through sites they control themselves (housing association led developments) or through Section 106 planning agreements.

4.3 Housing Association led developments

4.3.1 Housing association led developments are schemes whereby the majority or all the properties on a development are affordable. They can be very small developments that deliver a few affordable properties to larger developments that deliver 50 plus properties. The affordable properties are usually a mix of ‘social/affordable rents’ and ‘shared ownership’ properties although they may also include ‘rent to buy’ properties and properties for ‘outright sale’. Housing association led developments are generally supported with government grants and on occasion from the local authority.

4.4 Section 106 Agreements

4.4.1 A section 106 agreement is a private legal agreement between the Council and a developer under section 106 of the Town and Country Planning Act 1990. Section 106 agreements include the provision of affordable housing based on the evidence provided in the SHMA. In Amber Valley there is a requirement that all “housing development proposals on any sites of 0.5 hectares or more (or 15 dwellings or greater) will provide up to 30% of the gross number of dwellings, in the form of ‘affordable housing’, subject to consideration of viability” (Emerging Local Plan).

4.4.2 Based on earlier housing needs evidence that was reinforced by the SHMA evidence, the Council produced a Supplementary Planning Document entitled ‘Provision of Affordable Housing’ where it

identified that the Section 106 affordable housing tenure mix, should contain 90% social rented and 10% intermediate tenure. The National Planning Policy Framework (NPPF) defines intermediate housing as “homes for sale and rent provided at a cost above social rent, but below market levels”. Intermediate housing in Amber Valley is mainly delivered as shared ownership properties and is not a tenure that is dealt with by the tenancy strategy.

4.4.3 There are occasions when the Council will consider a higher percentage of shared ownership when:

- There are already high numbers of social rented units in an area and there is also significant demand for shared ownership properties
- The Housing Association delivering the affordable accommodation has requested a specific tenure mix that is still able to meet need identified in the SHMA.
- The location of the development is better suited to a larger percentage of shared ownership.
- The scheme is of a significant size to ensure that higher numbers of shared ownership units and social rented units can be delivered.

5. Tenancies provided by Housing Associations

5.1 Fully Assured Tenancies

5.1.1 Most housing association tenants who do not have a starter tenancy are fully ‘Assured’ Tenants. Fully assured tenants can remain in their property indefinitely (there is no fixed term) although, they do have to abide by specific tenancy conditions. If a tenant breaches tenancy conditions the housing association can take action that could lead to the tenant losing their home. A court order must be obtained before a housing association can gain possession.

Assured tenants have the following rights:

- have their home repaired
- sometimes buy their home after a certain amount of time at a discount - 'Right to Acquire'
- swap their home with another council or housing association tenant, with the housing association's permission

5.2 Starter Tenancies

5.2.1 Starter tenancies can be offered to new housing association tenants usually for a twelve-month period (this can in certain circumstances be extended). The twelve months is a probationary period where the tenant must prove they can manage a tenancy responsibly. Starter tenancies can be ended any time during the probationary period by serving a ‘Notice of Seeking Possession’ and then seeking a court order to remove the tenant from the property.

5.2.2 Unless specifically stated within the tenancy agreement, starter tenants do not normally have the following rights:

- Right to transfer, use a mobility scheme or mutually exchange your home
- Right to take in lodgers or sublet part of their home
- Right to assign the tenancy unless by a court order
- Right to make improvements
- Right to buy or acquire their home

- 5.2.3 At the end of a probationary period (unless the tenancies are provided as 'rolling assured shorthold' tenancies), people who have been given a starter tenancy will automatically become fully assured tenants if they have managed their tenancy responsibly and have abided by their tenancy conditions.
- 5.2.4 **Although there is no legal requirement for housing associations to adopt starter tenancies most housing associations who operate in Amber Valley consider them to be a useful housing management tool. Whilst the Council does not oppose the use of starter tenancies there is an expectation that every effort will be made to prevent people losing their homes and housing associations will be expected to work closely with the Council (Housing Solutions team) if possession proceedings are being considered or pursued.**
- 5.3 Fixed Term Tenancies
- 5.3.1 Housing Associations can offer a fixed term tenancy that covers a set period of time. The minimum period recommended for fixed term tenancies is two years, with five years as the norm. The Housing and Planning Act (2016) gave an additional option of offering ten-year fixed term tenancies if the household has a child under the age of nine years.
- 5.3.2 In the Council's previous tenancy strategy it was suggested that fixed term tenancies could, in theory offer a part solution to the under supply of affordable accommodation. This could be achieved if affordable accommodation was only made available when it was needed. Need would be reviewed at the end of a fixed term and a decision would be made on whether the household still required the affordable accommodation they were occupying or if alternative accommodation was more appropriate. Whilst the previous strategy put forward the case for fixed term tenancies it also highlighted the obstacles that would be faced by introducing them on a large scale. The obstacles include competing demands for certain types of affordable accommodation from emerging households and households needing alternative types of accommodation (mainly 2-bedroom family units), the profile of the affordable housing stock in Amber Valley (more 3-bedroom homes than 2-bedroom homes), the reluctance of households to consider private rented tenancies as an alternative to a housing association tenancy, the attachment households get to their home. Facing these obstacles there has been and continues to be a general lack of enthusiasm from housing associations in Amber Valley to introduce fixed term tenancies.
- 5.3.3 **Although the Council acknowledges there are good reasons that prevent fixed term tenancies being introduced on a large scale, there are occasions when fixed term tenancies should be given consideration. Within Amber Valley there is approximately 108, (social rented) 4+-bedroom properties most of which are likely to be under occupied because household members have grown up and moved on. The number of people on the housing register requiring a 4+ bedroom property is 105 (1st January 2019). In the whole of 2018 there were only 7, 4-bedroom properties available to let and there were no 5-bedroom properties that became available to let. By offering fixed term tenancies to households requiring larger properties and then reviewing the situation at the end of the fixed term which, depending on circumstances could lead to the offer of an additional fixed term, or an offer of a smaller property if the larger one is no longer required. Another instance**

when fixed term tenancies should be considered is when specifically, adapted properties are likely to be required for a limited period.

5.4 Rent to Buy

- 5.4.1 In 2014 the Government introduced funding for a new 'Rent to Buy' scheme. Rent to buy allows people to rent a property at below market rates for a minimum period of 7 years. During the reduced rent period the tenant should be able to save for a deposit so that they are able to buy their own home. At the end of the 7-year period, the tenant will have first refusal to buy the property they are living in or alternatively they may choose to move out and buy a different property or rent another property either privately or with a housing association.
- 5.4.2 If the property is sold, the housing association will have the option to use any returns on their investment to build even more affordable homes in the area. Alternatively, they will still have a house, which they can look to rent at an affordable rent to another tenant who needs help to buy.
- 5.4.3 Housing Associations within Amber Valley who have participated in the rent to buy scheme have reported that it is popular, although it is still too early to indicate whether it has achieved the aim of helping tenants to buy their own home at the end of the fixed term.
- 5.4.4 **The Council will support rent to buy schemes or similar schemes that help people buy their own home. The Council would want reassurance that rent to buy properties that are agreed as part of s106 planning obligations or are part funded by the Council will have mechanisms in place that will ensure that any returns following sales of properties are re-invested in affordable housing stock within the borough.**

5.5 Equitable Tenancies

- 5.5.1 People under 18 years of age cannot be granted a tenancy because they cannot legally hold an estate in land, which includes holding a tenancy. An equitable tenancy is one where the legal title is held in trust by an adult. The trustee could be an adult relative or friend, social worker or the landlord. When the young person reaches 18 years of age they will normally be granted a tenancy and the trustee will no longer be required.
- 5.5.2 People under 18 years of age wanting to be considered for social housing must apply to join the housing register (The council is part of the Derbyshire Home-Options partnership whereby 4 Derbyshire authorities and their respective partners have a joint housing allocations policy. Details of the policy can be found at www.home-options.org) Where a 16 or 17 year old applicant applies to join the register, their application will remain pending whilst it is determined whether they are capable of managing a tenancy. If they are not considered capable, their application will remain pending until they have reached the age of 18.
- 5.5.3 **Where there are concerns about the applicant's ability to manage a tenancy, Home-Options will work with other agencies to seek a resolution of the problem. In such circumstances, the application will remain pending unless:**
- **the applicant is accepted as a priority nomination from Social Care,**

- the applicant is accepted as requiring move-on accommodation following a successful period of sustained tenancy from a support provider accredited by the local authority,
- a move-on support package is in place at the point of offer,
- the applicant is accepted as homeless by the local authority.

5.54 **The Council supports the use of equitable tenancies to provide secure accommodation for 16-18-year olds where alternative accommodation is not available and where necessary support is provided to enable the young person to manage their tenancy.**

5.6 License or non-secure tenancy

5.6.1 Licenses or non-secure tenancies can be offered in various circumstances but because they offer very little protection to occupants it is important that they are used appropriately and in most instances for a specific purpose.

5.6.2 **The Council will support the use of licenses or non-secure tenancies by housing providers as part of its duties relating to homelessness prevention. This will include supported accommodation and temporary accommodation.**

6. **Affordability**

6.1 The type of rents charged by housing associations are generally social or affordable rents. From April 2015, the government also made it possible for social landlords to charge a full market rent where a social tenant household has an annual income of at least £60,000.

6.2 Social Rents

6.2.1 Since 2001, rent for properties let as 'social rent' have been set based on a formula set by government. This creates a 'formula rent' for each property based on the relative value of the property, relative local income levels, and the size of the property. An aim of the formula-based approach is to ensure that similar rents are charged for similar social rent properties. Social rents are the most affordable type of rented accommodation. Most new social rented properties are provided through s106 planning agreements (see paragraph 4.4)

6.3 Affordable Rents

6.3.1 In 2011, the government introduced 'affordable rent' which permits rents (inclusive of service charges) to be set at up to 80% of market rent (inclusive of service charges). Most new affordable rented accommodation that is supported with a government grant is provided as affordable rent.

6.4 The difference between social rents and affordable rents in Amber Valley

6.4.1 The difference between social rents and affordable rents within Amber Valley are shown in Figure 1. The properties are all 2-bedroom houses and represent former new properties delivered as part of a s106 agreement (social rent) and new properties delivered with government grant (affordable rent).

6.4.2 Figure 1

Address	Housing Association	S106	Grant Funded	Affordable Rent (per week)	Social Rent (per week)
Dam Close, Alfreton	Futures Homescape	yes	no	no	£103.09
Morewood Drive, Alfreton	Nottingham Community Housing Association	no	yes	£107.78	no
Rookery Close, Belper	Futures Homescape	no	yes	£101.00	no
Nailers Way, Belper	Nottingham Community Housing Association	yes	No	£113.93	no
New Delves Court, Heanor	Futures Homescape	no	yes	£108.00	no
Greenaway Avenue, Ripley	Waterloo Housing Association	no	yes	£97.87	no
Wallace Close, Ripley	Futures Homescape	yes	no	no	£100.89

6.4.2 **Figure 1 demonstrates that at the current time there is little difference between affordable rent and social rent in Amber Valley and the Council would therefore consider both to be suitable rents for new affordable housing in most areas within the borough. In areas where market rents are particularly high and would therefore have a bearing on affordable rents the Council would stipulate social rents in s106 agreements. The Council would always expect affordable housing rents within Amber Valley to fall within the ‘Local Housing Allowance’ rates (rent covered by benefit).**

7 Monitoring the Tenancy Strategy

7.1 The Council currently monitors the number of new affordable properties that are delivered within Amber Valley each quarter as a measure of corporate performance. The measure will in future include a further breakdown of tenure type and external funding sources.