

KENT COUNTY COUNCIL

SELECT COMMITTEE - AFFORDABLE HOUSING

MINUTES of a meeting of the Select Committee - Affordable Housing held in the Wantsum Room, Sessions House, County Hall, Maidstone on Friday, 14 February 2020.

PRESENT: Mr R J Thomas (Chairman), Mrs P M Beresford, Mrs T Dean, MBE, Mr D Farrell, Ms S Hamilton and Mr D Murphy

ALSO PRESENT:

IN ATTENDANCE: Mr T Godfrey (Scrutiny Research Officer) and Miss E West (Democratic Services Officer)

UNRESTRICTED ITEMS

1. **Rebecca Spore (Director of Infrastructure, Strategic and Corporate Services) and Mark Cheverton (Senior Asset Manager, Strategic and Corporate Services)**
(Item 2)
 1. Following introductions by the Chair and Members of the Committee, the Committee's guests were asked to introduce themselves and explain their roles. Rebecca Spore explained that she was Director of Infrastructure at Kent County Council (KCC). This meant she was responsible for property, estate and asset management. She also looked after KCC holdings from a landowner perspective. Mark Cheverton, Senior Asset Manager, led the property policy team within Infrastructure and oversaw the policy framework within which KCC's asset are managed to ensure that it appropriately discharged its duties in accordance with relevant legislation.
 2. By way of context, Ms Spore explained that there was a limit to the extent of the direct influence that KCC could have on affordable housing. KCC was not a statutory housing authority and this responsibility lies with the borough/district councils across Kent. KCC had a strategic role but the formal extent of affordable housing would be defined by local plans and policies at the borough/district level. Ms Spore and Mr Cheverton were attending the sessions to provide the perspective KCC has as a landowner. KCC primary responsibilities are to secure best value in accordance with S123 of the Local Government act, whilst this is primarily focused on maximising the return there are situations when other factors such as affordable housing would be taken into account when KCC realised assets it held for disposal, this must be in line with a KCC policy.
 3. In response to questions, the guests of the Committee covered a range of areas. The first one raised was that of partnership working with

borough/district councils. It was explained that there were specific projects underway. One such was the Live Margate project where KCC was working with Thanet District Council. This involved acquiring some properties together. There was a clear policy intention here to acquire HMO properties (houses in multiple occupation) and replace them with better quality ones. Thanet Council led on delivering affordable housing and KCC on private ownership. In this instance profit was not the key driver for KCC, which looked to recover costs and promote regeneration. In broader terms, the picture of working with borough/district councils varied across the county. The Growth, Environment and Transport directorate at KCC lead on establishing district deals that would underpin joint regeneration plans. They didn't manifest across the whole of Kent, with Thanet and Ashford notable exceptions.

4. In answer to a specific question about the use of pension funds for investment, it was explained that the pension fund as constituted did not invest in Kent itself. As a general point however, pension funds were quite keen to work with organisations on different types of housing projects and investment. This was a long-term income stream for them, and local authorities were often seen as stable partners.
5. KCC had to work within a framework underpinned by section 123 of the Local Government Act. This was essentially a best value duty meaning an obligation to extract the maximum value from land. This could be through investment, leasing, or disposal. KCC does have the power to take other considerations than return on investment into account. Where there was a clear policy driver set out in strategic statements or a specific requirement in a particular case like key workers in an education context. This legislative framework enables KCC to take up to a £2 million reduction per transaction. Where the difference between the value was more than £2 million, then the Secretary of State would need to give his or her approval. KCC had not applied to the Secretary of State during the time MS Spore had been at KCC. An undertaking was made to see if information was available on how often other councils had done so and what the approval ratio was.
6. Where there was a wider policy rationale, it was explained, a cost benefit analysis was undertaken. Where these did not exist, the best value requirement was upmost. The money coming from the release of assets is used to fund the Councils capital programme such as the provision of new school places. When disposing of land as a landowner KCC may put forward viability argument would be made when a project was otherwise deemed unsustainable. In other words, a judgment would need to be made as to whether a s.106 contribution would be reduced, or less affordable housing delivered, when requiring both meant the project would not go ahead. A similar balance would be made with KCC's involvement in the development cycle. If KCC disposed of the site at planning, the developer would continue and would be looking at, say, a 20% profit. If KCC stayed in for longer, a lower profit might be acceptable if accompanied by other benefits. In many cases however unless there was a clear policy driver for

KCC, KCC would be making representations about viability with the borough/district councils that were the final arbiter as the statutory planning authority.

7. These were the same factors at play when considering upscaling projects like No Use Empty and Live Margate. The ability to scale these projects should also need to take into account the financial capacity of the authority to do so and the risk profile. It is possible to establish a property development capacity as other authorities have however the aims and objectives would need to be clear and the rationale. how. There has been a lot of recent guidance around borrowing from the Public Works Loans Board for such purposes and has been an increasing area of focus following concerns that authorities may be taking inappropriate risk in commercial property investments.
8. By way of clarification, it was explained that the planning application process and property disposals were separate so no weight would be given to s.123 in respect of planning appeals.
9. It was also explained that compulsory purchase orders were used to secure land when appropriate.
10. The infrastructure team and its approach to asset management operates within the wider policy framework of the council. Outside of the projects talked about in the session, there were a limited number of county wide policies that feed through and they then to be project specific. There is no current key worker policy, for example, which would feed this through as a consideration. An example was given of a deal in Ashford where KCC own a small strip of land which is needed for the project. The value of the land is taken into account along with any objectives which are monetarised as KCC had made a clear policy commitment to support the regeneration project. Best value overrides this unless there is a policy consideration in place and a justification is always required. These may be referred to KCC s.151 officer or the Councils auditors Affordable housing was not one of the things at this time that needs to be taken into account.
11. Technical questions were asked about leasing and it was explained that each case was different but there were legal barriers to holding land for certain purposes. In Margate HMOs could be bought but KCC could not hold the lease directly.
12. It was explained that when KCC was considering an asset for disposal, the council more widely was asked if it had any requirements. If social care said it needed land for extra care housing, and there was a statutory or policy requirement around this then Property would look at it and it could be earmarked for housing. Vincent Godfrey was currently developing a business case around what the requirements were for older people's housing and what role KCC should play, if any, in delivering this. There is a tension at times between competing demands after it may have been established that a site is surplus. .

13. Questions were asked about partnership working with other organisations. To start with, Ms Spore explained that she was the lead for the Sustainability and Transformation Partnership (STP) estates workstream and there was work being done here around key worker housing. As and when proposals were put forward, KCC would have the option as to whether participate or not.
14. More broadly, there had been a One Public Estate programme in the past, but it was primarily the Kent Estates Partnership (KEP) that brought organisations together. The KEP brought KCC together with borough/district councils, parish councils (through the Kent Association of Local Councils (KALC)), the NHS, blue light services and central government together. It had been in place for around three years and shared a portal for sharing information, coming together on bids for funding and prioritising them, and seeing what needs could be met amongst the partners when one was proposing a disposal. It also facilitated difficult conversations when they were needed. Aligning policies was a harder challenge. Different organisations had different statutory responsibilities and priorities so that a single disposal could not realise a school and cheap housing for example.
15. Members teased out some issues around KALC representing local parishes and it was explained that other partners were reliant on KALC liaising appropriately with its members. Parish councils varied in size and assets. Arising from this discussion, the point was made by Mr Cheverton that land can have a value of £1 or even a negative value depending on any restrictions and covenants on the land.
16. To facilitate the public sector working together, as part of the Kent Estate Partnership all partners have signed up to providing their property data to the national data system, ePIMS. This mapped all public sector land including central government in a publicly available mapping tool. It was available for use by anyone with a public sector email and officers in Property would be able to set up an account for any interested Committee Member.
17. Partnerships were useful for leveraging funding for projects it was explained. For example, the project for Maidstone East station with Maidstone Borough Council. KEP had a prioritisation process for bids.
18. In terms of the vehicles for projects, it was explained that while much could be done through a company, the nature of the sites in question and overhead costs didn't mean this was always viable. A joint venture was often easier, unless there was a strong pipeline of projects to keep the company viable. KCC had joint ventures with borough/district councils and the private sector. It was explained that King's Hill was more of a contractual joint venture with company structures behind it rather than a company per se.

19. The question was asked as to whether any County Councils were involved in any housing related activity. Both Essex and Hertfordshire were doing interesting things it was reported. Hertfordshire had a large strategic site, so it was similar to the King's Hill project in Kent in some respects. It provided a large area in which to develop a place. KCC was a landowner of smaller properties over a wider area rather than one large plot. County Councils tended to be more active in specific areas like extra care housing.
20. Questions were posed around valuations and it was explained that a chartered surveyor would be used. Ultimately the market was the ultimate valuer.
21. Some concern was expressed by Members around the larger developers being able to put undue pressure on borough/district councils. Ms Spore explained that borough/district council and KCC could work more closely together but the planning teams were different. There would need to be further discussions around this.
22. The question was posed as to what more the guests felt KCC could do to increase the amount of affordable housing. It was answered that we needed to be clear on what we meant by affordable housing and how this fitted into the Councils wider priorities. There were opportunity costs to any decisions and policies. Different officers would have different views on where finite resources would be best placed.
23. A question was asked about sites that were stalled. It was explained that there were different reasons why sites were stalled, and that David Godfrey was leading work on unblocking sites coming forwards. Sometimes sites were just not viable, even after planning permission was granted and s.106s arranged, as the numbers just did not stack up. Land would be banked until the numbers did add up. The Housing Department (MHCLG) and Homes England were working through SELEP to provide infrastructure funds to unblock. The availability of finance was an issue and there was a question as to how far KCC should take the risk.
24. More broadly there was the question of how much physical capacity KCC had to invest. Reference was made to information Members would have seen elsewhere on how KCC compared to other authorities. KCC did not have an uncapped borrowing capacity against a housing revenue account. If the context changed, the risk appetite may change. If sites stall over viability, a longer-term view might be required with an eye of future value.
25. The attending guests explained that the more there was an overarching plan the better it would be. Whilst KCC has some strategic planning responsibilities the Local Plans regarding housing are the responsibilities of individual Districts. KCC could and does make representations but KCC as a landowner may have a different view than KCC in its other functions. In parts of the county with lower land and property values, viability would be harder to achieve. The borough/district council would need to make judgement in each separate case. Where KCC did not agree with a

planning decision the decision, the only option would be judicial review, which would take time and money.

26. On the subject of s.106 agreements, this was a GET responsibility it was explained, and they would have views on Member involvement and whether Members could have any role in arbitration. When disposing of its land KCC can take forward proposals in two ways, as landowner directly taking the project forward. In other cases, a developer would be taking a development forward on KCC's behalf, and so there would be the opportunity to engage with local stakeholders.
27. There was a discussion amongst the Committee about KCC's role in the highways department objecting to proposals with the views on the extent and frequency varying.
28. As a final response to the question of how KCC could get more involved in the development of affordable housing, it was commented that it fundamentally came down to policy drivers and what KCC was trying to achieve.

2. **Lee Heley (Head of Housing Growth, Essex County Council) and Daniel Baker (Housing Growth Lead, Essex County Council)**
(Item 3)

1. The Chairman welcomed the guests to the Committee.
2. Mr Heley and Mr Baker introduced themselves to the Committee and briefly talked about Housing Growth in Essex.

3. **What interplay is there between districts? Are the district Leaders welcoming of additional affordable housing?**

Mr Baker confirmed that a significant amount of work had been undertaken to establish positive relationships with Essex County Council (ECC) housing partners and support their wider housing aims. He explained that an ECC housing strategy is being developed by ECC's Housing Growth Unit which will go out to public consultation soon. The strategy consultation document was submitted to Essex County Council's Place Scrutiny Committee in January and was generally welcomed, it was also shared with Essex's district and borough housing officers to seek and incorporate feedback before formal consultation commences. He emphasised the importance of ensuring that the appropriate language was used within the document recognising the distinctive housing roles that different organisations play. Mr Baker outlined the three strategic goals included in the emerging ECC housing strategy:

- i. **Growing Essex while protecting the best of the county** - maintaining a focus on quality growth and ensuring that housing growth supports wider policy objectives e.g. environmental sustainability and supporting local

districts to deliver the required amount of housing including affordable housing.

- ii. **Enabling people to live independently throughout their life** Promoting accessible housing provision that allows people to remain independent and healthy for longer, the provision of specialist accommodation when needed and the potential for new technology to enable people to remain in their own homes.
- iii. **Supporting people to have a stable home** Partnership work to tackle rough sleeping, homelessness and the inappropriate use of temporary accommodation in Essex.

4. **Can you tell us more about the establishment of Essex County Council's dedicated Housing Growth Unit and its main aims/objectives?**

Mr Heley said that the dedicated Housing Growth Unit had been established to work across Essex, in partnership with colleagues across the Council and with the 12 local housing authorities, to help deliver ambitions for housing growth. He said that, work over the last 12 months had been focused on developing and submitting three Housing Infrastructure Fund bids to government seeking investment to deliver infrastructure that supports housing growth. He said that to date the government have announced that two HIF bids have been approved in Essex meaning that £317m in funding for new road and sustainable transport infrastructure has been secured subject to agreement of terms and conditions. He emphasised the importance of the County Council having the capacity and capability to understand and engage with the housing delivery elements of the bid and not just infrastructure aspects. He said that as the bidding authority Essex County Council would be held accountable for housing delivery related to the funding as well as infrastructure delivery. He added that Essex County Council were passionate about ensuring that the money that came into the county delivered the right amount of affordable housing to its residents. He explained that housing associated with the funding needed to be compliant with local plan policy requirements on affordable housing.

5. **Could you provide more information in relation to Affordable Housing supply in Essex? What does it mean to be an affordable home?**

Mr Heley set the wider context of worsening affordability over the last decade since the global financial crisis in 2008. He said that the affordable housing crisis was exacerbated in part as a result of the global financial crisis and national policy responses to it. Lower interest rates and quantitative easing raised house prices, but wages have not increased at the same rate. He briefly referred to the freezing of housing benefits as one long term consequence of the global financial crisis: the Bank of England lowered interest rates, pushing up house prices and so private sector rents. The government cut expenditure as tax revenue fell after the financial crash, including freezing housing benefit in 2016. So rent is up, but wages and benefit have fallen. Benefit no longer pays for rent in the private sector in Essex, making housing less affordable.

Mr Baker referenced a project looking at ways to increase affordable housing in Essex involving multiple public sector partners and coordinated by ECC's housing growth unit, a final report is due in the spring. He confirmed that there were approximately 1,250 new affordable housing units built in Essex in 2018-19, which was the highest amount since 2013.

6. Could you provide more information in relation to accessible housing and life-long homes?

Mr Baker referred to the pivotal role that building regulations play and specifically the government-approved document 'Access to and use of buildings'. He emphasised the importance for ECC of ensuring that people were able to access and use buildings and their facilities. He said that it was often difficult to ensure that houses were wheelchair accessible as there had to be a demonstrated need and that viability needed to be taken into account. He said that partnership working between Essex County Council and housing partners would continue to understand how best practice and knowledge could be shared to ensure accessible housing is delivered that meet the county's residents' needs. Mr Heley stated that the more information that was available within an agreed policy, the more it suppressed land value, he emphasised the importance of clearly specifying need with underlying evidence. Brian Horton emphasised the importance of affordable housing to developer business plans in helping to smooth cash flow considerations.

7. Is it often difficult to secure land in first instance and find developers to build on land?

Mr Heley said that developers bring land forward through the planning system. He referred to Essex's garden communities and by way of example referred to the 43,000 homes proposed in garden communities in North Essex alone. He said that development was often a complex process, especially at a large scale and involved multiple landowners and different developers.

8. What conversations are taking place at Essex County Council in relation to asset management, policy and disposals?

Mr Heley said that Essex County Council had an independent living programme which brought forward schemes for older people with complex care needs which included use of ECC-owned land. He briefly talked about the close working relationship between property and housing in Essex and the importance of evidential work to show best value and best consideration for the intended purpose.

9. What is Essex County Council's relationship with the NHS like?

Mr Baker referred to a development site in Colchester which Essex County Council's housing development team 'Essex Housing' were working on with NHS partners. He added that wider conversations were taking place between Essex County Council and the NHS in relation to housing.

10. What opportunities are there for Essex County Council to work more closely with district councils in relation to housing?

Mr Baker referred to the Essex Planning Officers Association, which was currently chaired by Essex County Council's Head of Planning, and the positive joint work that had been undertaken in supporting shared aims in relation to e.g. housing viability and good design. Mr Heley talked about the potential for shared capacity to engage further with developers and garden communities through the master planning process.

11. How can housing associations be best supported to deliver more affordable homes?

Mr Baker said that positive discussions with housing associations and the National Housing Federation were taking place via the ongoing affordable housing project (referenced in response to question 5 above) in relation to the delivery of policy-compliant affordable homes. He talked about the range of housing associations in Essex and the different approaches that were needed dependent on local context in relation to land supply and grant funding. Mr Heley emphasised the importance of housing associations in delivering ECC's Independent Living programme.

12. Could more be done in relation to affordable housing? Are all opportunities being captured?

Mr Heley referred to the need for land, funding and market for the development of housing and the need to become more involved in the land market to generate greater opportunities. Brian Horton added that confidence and certainty in delivery helped to secure delivery of more affordable homes.

13. Are there many objections in relation to additional affordable housing units in Essex?

Mr Heley said that Essex County Council worked closely with district colleagues in relation to the importance of affordable housing delivery and also for specialist housing. Districts are supportive of the need for more affordable housing including specialist affordable housing.

14. In your view, what more can Kent County Council do, if anything, to support the development and provision of affordable housing in Kent?

Mr Heley reiterated Brian Horton's earlier comments in relation to the importance of having confidence and certainty in delivery and the positive work that Kent County Council had already undertaken in relation to affordable housing by holding a Select Committee on the matter. He said that affordable housing was key to enabling people to move out of inappropriate accommodation and live independently.

15. What would you say are the key things that could shake confidence in relation to housing schemes?

Mr Heley emphasised the importance of maintaining a positive working relationship with the county's districts.

16. Is there any superannuation fund involved in the housing developments in Essex?

Mr Heley said that some housing associations in Essex were backed by pension funds and that pension funds were involved in directly investing in housing developments, but he was not aware of council pension schemes investing in housing developments in Essex.

17. Are landowners involved in any of the housing conversations between Essex County Council, developers and partners?

Brian Horton confirmed that landowners would not usually be involved in conversations which related to housing developments, but developers would be.

The Essex Developers Group and the SELEP Housing and Development Group being examples of the forums where council/developer conversations take place.

The Chairman thanked the guests from Essex County Council for attending and answering Members questions. He invited them to submit written evidence in support of the Select Committee's work.