



## TENANCY STRATEGY

### Introduction

The Localism Act 2011 places a duty on all local housing authorities to publish a Tenancy Strategy. Although Three Rivers Council transferred its housing stock in 2008, the purpose of this document is to set out its views, as the strategic housing authority, in relation to some of the new housing provisions within the Act. These are:

- **Affordable Rents.** Providers of affordable housing will be able to charge up to 80% of market rent levels for their homes when newly built and on a proportion of re-lets. The primary purpose of this is to contribute to the funding of new housing.
- **Fixed-term Tenancies.** To comply with the Act these must be for a minimum term of two years, but the government recommends at least five years after which time they may be renewed. The length can be tailored to the tenant's circumstances and providers may still offer 'lifetime' tenancies on all or some of their lettings. This provision is not dependent upon Affordable Rents being charged.

The Tenancy Strategy forms a part of the Council's wider policy framework including the Housing and Homelessness Prevention Strategies and needs to be seen within that context. Although the Housing Strategy has yet to be published, its emerging core objectives are;

- To improve the supply of affordable housing contributing to sustainable communities
- To improve the standard of housing contributing to sustainable communities
- To improve access to housing and affordable housing for communities across the whole district

Registered Providers are obliged to give 'due regard' to the local authority's opinions when setting their own policies regarding all aspects of flexible tenure. The Localism Act does not require the same account to be taken of a local authority's view of their rents policies but, as this is integral to the Council's strategic housing role and one of its three key objectives, this document does include reference to rents and affordability issues.

Also as a result of the Localism Act, the Council is reviewing its Allocations Policy. Once finalised, this too needs to be considered alongside this Tenancy Strategy.

The new legislation has created more complexity and a wider diversity of the types of tenancy to be offered. Regardless of what is ultimately advertised, it is essential that all customers are clear on what is being offered and the implications for them of each type of tenancy. The Council is working on this with all local Registered Providers (RPs) to ensure that the Choice Based Lettings scheme remains a model of clarity for existing and prospective tenants.

### **Three Rivers Housing Market**

The full housing circumstances within the district can be found in other related documents, notably the Council's Local Investment Plan, Local Development Framework and Housing Strategy (currently in draft form). For the purpose of setting this document in context, it is worth stating a few key factors regarding the demand for affordable housing.

Average house prices in the District are some of the highest in the country outside London. As a result, many local people have difficulty in accessing housing on the open market.

The current house price to earnings ratio in Three Rivers is 9:1 (rising to 9.8:1 for the lowest quartile house process), compared with 7.6:1 (8:1 lowest quartile) across the region.

The Council has undertaken an assessment of need through the Strategic Housing Market Assessment (SHMA) in partnership with other South-West Hertfordshire authorities (Dacorum, Watford, St Albans, Hertsmere and Welwyn Hatfield). This provides a thorough assessment of current and future housing market needs and the housing requirements of specific groups.

The key findings from the SHMA are that:

- The requirement for affordable housing in and around the Three Rivers area remains exceptionally high. This is largely as a result of very high house prices and rents, a constricted supply of suitable sites for all housing types and losses from the existing affordable stock through 'Right To Buy' sales. The area with by far the largest

concentration of socially rented homes (South Oxhey) has seen almost 80% lost to the Right To Buy.

- In order to satisfy affordable housing requirements, all future housing supply in the district to 2021 would need to be affordable. This represents the highest requirement amongst the six authorities who undertook the SHMA.
- House prices in Three Rivers are very high and affordability has been worsening. The ratio of median and lower quartile house prices to workplace earnings has doubled in the last 10 years and is not only higher than the national average, but also the Hertfordshire average. Alongside the need to provide more housing to meet forecast housing growth, there is therefore a particular need to achieve more affordable housing, particularly family-sized.
- While the District as a whole is ranked low in terms of deprivation, there are inequalities. South Oxhey is particularly affected by low income, barriers to education, skills and training, living environment and crime and disorder. Parts of Maple Cross and Mill End are affected by income, barriers to housing and services and living environment. More rural parts of the District are affected by barriers to housing and access to services<sup>1</sup>
- The SHMA assessment of the need for housing, by size, to 2021 shows a marked difference between Three Rivers and the other five South-West Hertfordshire Councils that were part of the assessment. The need for three-bedroom, social rented accommodation (41% of total social rented requirement in Three Rivers) is considerably more than the need in other authorities which ranges from just 19% (Hertsmere) to 32% (Welwyn/Hatfield). Unsurprisingly, the one-bedroom comparative needs are reversed.

The Housing Register shows that, within the District, there is currently an urgent need for family-sized social rented affordable housing. Approximately 100 new applications to the Housing Register are made each month and there are currently around 1,800 'live' applicants. Over 900 are deemed to be in some degree of housing need with around 50 having a 'very high' or 'urgent' need.

The provision of new affordable housing within the district is severely curtailed by the current economic climate and the proliferation of land in the Green Belt. Recent amendments to the

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<sup>1</sup> CLG (2008) *The English Indices of Deprivation* [Online]  
<http://www.communities.gov.uk/publications/communities/indicesdeprivation07>

Right To Buy regulations have been made with the objective of re-stimulating the sale of existing socially rented homes.

Consequently, the Council's stance on Affordable Rents, outlined below, is driven simply by the need to maximise the retention of decent homes which those on the Housing Register can afford to live in.

### **Affordable Rents**

In view of the change to the Government's method of funding the National Affordable Housing Programme involving the gross reduction of grant funding through the Homes and Communities Agency (HCA), the Council will adopt a pragmatic approach to the need for some Affordable Rents being charged. However, this is based on the premise that this type of rent will indeed be affordable to those on benefits and low incomes, as well as to better paid working people, and does not result in lettings to those who are not in any degree of housing need.

The Council commissioned a study by BNP Paribas entitled "Impact of the Affordable Rent tenure on affordability and the viability of developments in Three Rivers" which was published in June 2012.

Amongst other things, this was to provide objective evidence upon which to base the content of this Strategy and, in turn, to inform the policies of local RPs. The key findings of the Paribas report (a full copy of which is available separately) in relation to the affordability of rents were:

- Three Rivers district has a range of rental sub-markets showing significant differences in average rent levels. It recommends that the Council has a flexible approach to tenure and rents as opposed to adopting one policy across the district.
- Modelling of various rent levels in these sub-markets shows how any increase of rents from Social up to 80% of market levels will incrementally render those homes unaffordable for large numbers of those on the Housing Register
- An 80% Affordable rent for a family unit would exceed the amount within the Universal Credit (once introduced) eligible for covering housing costs. This will effectively exclude non-working families (68% of new social housing tenants as reported in the SHMA) from homes let at Affordable Rents. Large families, whose benefits are currently not capped, will be particularly affected.

To guard against this, the Council urges providers to :

- set affordable rents no higher than the Local Housing Allowance
- take local circumstances into account and assess the need to set rents at below 80% of market rent to ensure that Affordable Rents are not set at levels which are a disincentive to work and tenant mobility particularly in regard to tenants downsizing
- understand the full implications of Universal Credit on the ability of all family types to pay Affordable Rents

When considering the provision of free or discounted land or grant from the Council to Registered Providers, the Council may require the resultant dwellings to be provided at social rents and on secure lifetime tenancies.

### **Tenancy Conversions**

Our aim, as far as possible, is to maintain the current level of social rented homes in Three Rivers to meet the requirements of existing tenants who need to transfer, and of new tenants for whom a social rented home best meets their needs. This is also important for sub-regional Herts Choice Home cross-borough mobility.

The initial effect of Affordable Rents on re-lets will be fairly limited. Thrive Homes owns over 66% of the social rented stock within the District. Their agreement with the HCA restricts the number of vacant properties to be converted on re-letting to 20, up to 2015.

If a large proportion of social rented re-lets in the District were to be converted to Affordable Rent, over time this would have a significant impact on the size of the stock of social rented homes and a potential impact on mobility in the District.

Given the high need for affordable family homes in the District, we expect most conversions to be smaller 1-2 bedroom homes.

Other considerations that would be taken into account include:

- if conversion was to an Affordable Rent at a level comparable to housing association target rent levels
- if conversion raised resources for building new affordable homes in Three Rivers, of a type and size that are a high priority

- the conversion of properties let at social rent levels which are subject to s106 agreements will not be supported.

### **Fixed Term Tenancies**

The Council welcomes the additional freedoms being given to RPs through the Localism Act. The traditional grant of new tenancies which last indefinitely has not taken sufficient account of the often temporary nature of a person's acute housing need and the potential role of social housing in providing a bridge between a period of crisis and a more settled time when other housing options may be achievable.

Consistent with this, as one of five local authorities in the Herts Choice Homes sub-regional Choice Based Lettings scheme, we are re-designing our housing register application process. This will encourage and assist applicants to find alternatives to social housing and to see it as just one of a range of options which will not be available to those who are in no great need of housing or who can reasonably be expected to afford other housing solutions.

The ability to periodically assess the suitability of the social housing provided also presents an opportunity to make better use of the increasingly limited stock by addressing under-occupation and creating more family-sized accommodation through re-lets. A tenant's ongoing need for a property which has been adapted can also be regularly evaluated so that, if the need no longer exists, the home may be re-allocated to another tenant with disabilities.

With these increased freedoms, however, comes an increased responsibility to ensure that the new powers are applied consistently and judiciously. The Council is very keen to ensure that RPs operating within the District not only adopt policies which are clear, fair and non-discriminatory, but their working practices also embody these principles.

### **Tenancy Term**

There is a balance to be struck between realising the potential wider benefits of offering fixed-term tenancies and ensuring that the security given to individuals and the sustainability of communities are not unduly compromised. The Council agrees with the Government's recommendation that fixed-term tenancies should be for a period of not less than 5 years. Although the statutory minimum is 2 years, there are no categories of housing applicant for which a term of less than 5 years is suitable as a matter of course. For individual applicants in exceptional circumstances a tenancy of 2 – 5 years may be appropriate.

It has been clearly established that residents without either a permanent or long-term stake in their home will be unlikely to invest in their property or the local community to the same extent as others.

Fixed terms in excess of 5 years should be considered in certain circumstances. For example, those with younger children who will not be leaving the family home within the next several years could be offered tenancies of up to the youngest child's 21<sup>st</sup> Birthday/5 years duration. This would provide more certainty regarding schooling and other local services and remove any uncertainty that they may be required to move after the initial term.

Alternatively, as the non-renewal of a tenancy and the requirement either to move into more suitable social accommodation or out of the sector will be exercised only in exceptional cases, it should be made clear to new tenants that there would be a general presumption (but not a guarantee) that fixed-term tenancies would be renewed after the initial grant. This could be made explicit in RPs' policies and within their new tenancy documentation and include specific examples of the circumstances in which renewal may be unlikely.

Tenancies of sheltered and other designated elderly persons' dwellings should continue to be offered on a 'lifetime' basis. The Council considers that people approaching or over normal retirement age should be entitled to certainty about the permanency of their home. Although their circumstances may still change (eg through the inheritance or other acquisition of a sizeable capital sum), the infrequency of this and the relative low demand of many such homes do not justify the offer of fixed-term tenancies to everyone in this age bracket. In addition, the RP's ability to let most elderly persons' properties would likely be further hindered by the lack of this security.

RPs should also consider whether 'lifetime' tenancies should be offered to people suffering from permanent disabilities the effect of which renders them economically inactive.

### **Transferring tenants**

The Council expects all social landlords to ensure that their policies do not risk reducing tenant mobility. Having gained an opportunity through the new legislation to tackle under-occupation and make better use of the stock, it would be counter-productive to introduce other measures which discourage tenants from moving home.

The prospect of reduced security of tenure and/or a considerably higher, 'affordable' rent is likely to be a disincentive to most tenants seeking to move. Consequently, the Council strongly favours transferring tenants retaining their security after a move into accommodation offered by any other social landlord.

As locally operating RPs will be converting only a proportion (and in the case of the primary RP, Thrive Homes, an extremely low percentage) of their vacancies into Affordable Rents, the Council also recommends flexibility in the rent levels being offered. Properties could be advertised at either Affordable or Social rents, depending on whether the new tenant is transferring. If allocated to an existing tenant, further properties (including the one vacated, if owned by the same landlord, which would not otherwise have been become void) could be advertised similarly until the required number of conversions is achieved. It is recognised that this slightly complicates an RP's business plan by giving less certainty about its projected income stream, but this is not an insurmountable difficulty.

### **Tenancy renewal**

Registered Providers are expected to maintain tenant profile records and an awareness of their relevant circumstances. It is therefore anticipated that RPs will not delay all activity in this matter until the end of the fixed-term tenancy is imminent but will have an ongoing dialogue at least with those tenants who are most likely to be affected.

The Council envisages that there will be three main considerations in determining whether a fixed-term tenancy should be renewed;

i) **The tenant's financial circumstances**

Have these changed to the extent that they can reasonably afford an alternative tenure which is available within their locality? It is not anticipated that a detailed means test would be carried out in every case but where, for example, a tenant was unemployed when the tenancy was granted and is in employment when it is due for review, this would merit further exploration.

Strict financial thresholds against which this may be measured (and which may act as a disincentive to find or change employment) should be avoided and the involvement of a specialist financial advisor (eg the Citizens' Advice Bureau) is encouraged.

ii) **Suitability of the property.**

If it is under-occupied, the acute need for family sized accommodation within the District should prompt an exploration of whether smaller alternative accommodation should be offered. This should not simply be a test of whether there are surplus bedrooms in the home but should involve the assessment of the household's circumstances. In the absence of any familial, medical or social

factors which would render a move unreasonable, there should be a presumption that smaller accommodation should be sought by the landlord.

Whether a property is under-occupied should be measured by applying the occupancy standards in force at the time within the Council's Allocations Policy.

Tenants who are required to move to smaller accommodation should be eligible for any incentives offered by the RP in such circumstances even though the move may not be through their choice.

If the property has been significantly adapted (for example, through the installation of a lift or a ground floor extension, but not just by having grab rails fitted), and no member of the household has a need for this, consideration should be given to offering alternative accommodation.

- iii) **Tenancy conduct.** Where neither of the above two criteria apply but action to seek possession of the property due to a breach of tenancy conditions is well advanced, it may not be appropriate to renew the tenancy.

The Council urges RPs not to view the opportunity of obtaining possession through non-renewal of a fixed-term tenancy as an easier alternative to obtaining a court order through the established route. This is not only to avoid the vagaries of subjective decision-making but also to guard against the acceptance and nomination of tenants who apply to the Council as homeless after being evicted.

### **Advice and assistance**

RPs will be obliged to offer advice and assistance to those who are not having their tenancy renewed and not being offered alternative accommodation.

The Council would like to see the RP engage with the tenant at the earliest possible opportunity and to explore with them the availability of alternative housing. This would include options for outright purchase, shared equity and renting in the private sector (for which the RP may consider assisting with a deposit guarantee/loan, if required).

Although it may not be possible to offer anything more than basic advice on more specialist areas (eg welfare benefit entitlement, special needs housing), RPs should take a partnership approach with other agencies, including the local authority, to ensure that their tenant is afforded every opportunity to obtain alternative housing. This level of service should be provided to all tenants faced with the loss of their home, even if this results from breach of their tenancy conditions.

Ideally, a formal joint protocol should be developed and entered into by the relevant parties.

### **Equalities**

This strategy has been considered against the council's Equality Impact Assessment (EIA) criteria. No detrimental impact is identified for any protected groups as the purpose of the Strategy is to:

- ensure that the needs of specific groups who are vulnerable are recognised and addressed.
- advise and influence the providers of social housing in how they might shape their own policies

The Council expects all RPs to subject their own rent and tenancy policies to an EIA.

### **Status of Strategy**

The Localism Act requires that local authorities have a tenancy strategy in place within 12 months from the day on which the relevant sections of the Localism Act 2011 came into force. RPs are required to consider Three Rivers District Council Tenancy Strategy when writing their own tenancy management policies. Compliance with Three Rivers' Strategic Tenancy Policy will form part of future development agreements, tenders and selection criteria for partnering arrangements.

### **Monitoring**

The Council will work with Registered Providers through the Housing and Regeneration Initiative (HARI) and Herts Choice Homes to monitor implementation of this Strategy. It will also monitor the tenancy policies produced by providers. RPs' evictions and tenancy terminations will be considered within the context of this strategy, and feedback from RPs will form part of the ongoing review. Lettings by RPs will be monitored and reported and the impact of fixed-term tenancies will be discussed with partners.

### **Safeguarding Implications**

Three Rivers District Council works closely with colleagues in Hertfordshire County Council Children Schools and Families, Adult Social Care and Health to ensure that Safeguarding protocols are applied. It is imperative that none of the vulnerable residents of the District is

endangered by the policy changes and that any support required with regard to tenancies is provided by the RPs.

### **Review**

This strategy will be subject to review at least annually from September 2013, and when any developments which may affect its content occur.