

CITY AND COUNTY OF SWANSEA

MINUTES OF THE COMMUNITIES CABINET ADVISORY COMMITTEE

**HELD AT COMMITTEE ROOM 5, GUILDHALL, SWANSEA ON
THURSDAY, 12 JANUARY 2017 AT 2.00 PM**

PRESENT: Councillor R A Clay (Chair) Presided

Councillor(s)
J E Burtonshaw
T J Hennegan

Councillor(s)
U C Clay
Y V Jardine

Councillor(s)
A M Cook
R D Lewis

Officer(s)

M Hawes
S Woon

Director of Resources / Section 151 Officer
Democratic Services Officer

Apologies for Absence

Councillor(s): N J Davies, M B Lewis and G J Tanner

Apologies for absence were also received from Councillor A S Lewis, Cabinet Member for Next Generation Services.

31 **DISCLOSURES OF PERSONAL AND PREJUDICIAL INTERESTS.**

In accordance with the Code of Conduct adopted by the City and County of Swansea, no interests were declared.

32 **MINUTES:**

NOTED that the previous meeting was inquorate.

33 **FINANCING OUR NEW HOUSE BUILDING: PROBLEMS AND OPPORTUNITIES.**

Mike Hawes, Director of Resources, stated that there were many complexities surrounding the financing of new house building. Legislation in England differed from Wales therefore any legal advice provided to English local authorities could not be re-badged and utilised by the 11 Welsh Local Authorities (the remainder of the Welsh local authorities had previously transferred their housing stock).

He stated that he had been liaising with colleagues in Carmarthen Council to gain an understanding on their progress. Whilst contact had been made with the remaining 10 Welsh authorities to ascertain their progress, responses were outstanding.

By way of background he stated that local authorities were driven by statute and must therefore have the statutory backing in order to make any decisions. 'Promotion of Wellbeing' as detailed in the Local Authority Act 2000 provided local authorities with powers to act in the best interests of local tax payers. Promotional Wellbeing was also included in the promotion of affordable and social housing. There were two other acts which were applicable in this context, the Localism Act

2011, which provided a general power of competence for the wellbeing of taxpayers (whilst this was not applicable in Wales different legislation for Wales would provide similar provision) and the Local Authority Act 2003 which provided local authorities with the ability to undertake trading activities (albeit via an 'arms length' company). It was noted that advice was currently being sought as to whether the term 'trading' included the ability to build houses and to seek clarification on the complex legal issues generally.

In response to Member questions the Director of Resources stated that:

- a) The Authority could not borrow more than £6m for new build purposes at this particular point in time;
- b) Following the implementation of the Welsh Quality Housing Standard in 2020, the surplus that would previously have been spent on repairs and maintenance from the Housing Revenue Account (HRA) could be used to pay off debts/contribute directly to new house build;
- c) Promotional Wellbeing (Local Authority Act 2000) also included the promotion, not provision, of affordable and social housing. There was little advice to suggest that this Act would allow for house building at this particular time;
- d) The Housing Act 1985 provided local authorities special powers to erect, acquire, convert, enlarge, repair, alter or dispose of land for social housing purposes. All these activities were to take place within the ring-fenced HRA. The legislation did not allow the Authority to cross subsidise from other accounts and it was unlawful for the HRA to transfer money to different accounts;
- e) It may be feasible for the Authority to build under HRA with a partial ownership scheme. Additionally, when the building was sold it would be a capital receipt and an element of the receipt might be payable to the Welsh Government. Challenges were currently ongoing regarding that legal opinion;
- f) It is potentially legal to sell below the market value in order to provide affordable housing to, for example, first time buyers. However, the Authority must have the permission of the Wales Audit Office;
- g) The Authority would need to be clear on the rationale for utilising the General Fund to finance mixed ownership and Welsh Local Authorities do not believe they have the power to build. One option was to examine the use of housing companies which would be at 'arms length'. Notwithstanding, this approach created different types of control issues in so far as the company could not be controlled by the Council and any rents/responsibilities could not fall to the Council. This in turn resulted in the houses not being classed as 'council houses';
- h) Whilst the Authority had the power to pay someone's rent under homelessness powers, they do not have the apparent power under the General Fund to build houses;
- i) There are issues relating to the potential sale/transfer of Local Authority land (including General Fund) to such a company, based on value (anything below market value would require approval, including accounting for stamp duty, land tax, corporation tax and disposal);
- j) For any capital contribution in any way, issues would need to be resolved around prioritising and Councils ability to manage debt;

- k) The issues are not simply associated with the cost of construction, there were also matters in relation to what the land would be worth. If the land was leasehold then that would be classed as a capital asset, albeit a deferred asset;
- l) General Fund land could potentially be swapped with HRA land; that would be based on equivalent value or adjusting payment;
- m) Building within the HRA for resale has the potential to conflict with the current suspension of tenants right to buy;
- n) There are potential capitalisation directive powers available from Welsh Government but none are currently available. In any case those powers simply give authority to borrow and would not cover debt financing charges;
- o) Section 106 agreements relating to social housing provision needs examined as a potential source of funding.

The Chair thanked the Director of Resources for his informative presentation.

RESOLVED that:

1. The Director of Resources provide a future update in respect of the use of the General Fund for the provision of affordable housing;
2. The Director of Resources provide a future update in respect of Section 106 agreements and Developers contributions to Council houses in Swansea.
3. The presentation be **NOTED**.

34 **WORK PLAN 2016-2017.**

The Chair presented an updated Work Plan 2016/2017.

RESOLVED that:

- a) The Committee receive a presentation from Local Partnerships (a Welsh Government sponsored organisation) at the meeting scheduled for 9 February, 2017; and
- b) A special meeting be convened to consider Passiv Haus Tenants' Welcome Pack.

The meeting ended at 3.30 pm

CHAIR