

ISLE OF ANGLESEY COUNTY COUNCIL	
MEETING:	Executive and County Council
DATE:	29 th January and 28 th February 2018
TITLE OF REPORT :	Amendments to Council's Constitution- Delegation to the Head of Service (Housing)
REPORT BY :	Lynn Ball Head of Function(Council Business) / Monitoring Officer
CONTACT OFFICER :	Lynn Ball Head of Function (Council Business) / Monitoring Officer 01248 752586 / lbxc@anglesey.gov.uk
PURPOSE OF REPORT :	To amend the Council's Constitution in order to facilitate a new housing initiative

1. BACKGROUND

- 1.1 The Council proposes to acquire additional social housing by means of design and build packages. A report to this effect was received and approved by the Executive on the 18th December 2017. (Attached at **Enclosure A** is a copy of the report to the Executive, and the decision record)
- 1.2 At page 5 of the report at **Enclosure A** it was highlighted that, in order to facilitate this proposed initiative, it was also desirable to amend the Council's Scheme of Delegation by extending the powers available to the Head of Service (Housing).

2. CHANGES TO THE CONSTITUTION

- 2.1 In order to amend the Constitution, full Council is required to adopt the suggested amendments; with the Executive having first had an opportunity to express a view.
- 2.2 Attached at **Enclosure B** is the current Scheme of Delegation to the Head of Service (Housing) with the proposed amendment to paragraph 3.5.3.12.2 together with additional paragraphs beginning at 3.5.3.12.46.

3. REASONS

- 3.1 At present, the acquisition and disposal of land/real property is delegated to the Head of Service (Highways, Waste and Property) under the Scheme of Delegation and the Asset Management Plan.
- 3.2 However, those powers do not extend to social housing and the Housing Revenue Account. This means a similar delegated authority to the Head of Service

(Housing) is required to facilitate the initiative adopted on the 18th December 2017. The proposed changes at **Enclosure B** are designed to that end.

4. **RECOMMENDATIONS**

4.1 That the Executive approve the proposed amendments at **Enclosure B** and commend such changes to the full Council.

4.2 The full Council approve the suggested amendments at **Enclosure B** and authorise the Monitoring Officer to make the necessary changes arising therefrom.

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	Executive Committee
Date:	18 December 2017
Subject:	Development of New Council Houses through a Design and Build Package by Developers who are Landowners
Portfolio Holder(s):	Councillor Alun Mummery
Head of Service:	Shan Lloyd Williams
Report Author: Tel: E-mail:	Ned Michael, Housing Business Manager
Local Members:	Relevant to all Elected Members

A –Recommendation/s and reason/s
<p>It is recommended that the Executive Committee on 18th December approves: -</p> <p>The purchase of new houses built by private developers through design and build packages on lands that are owned by the private developers.</p> <p>The Executive to recommend to the full Council that the Scheme of Delegation to the Head of Service (Housing) be amended to reflect the additional powers required to realise the transactions required by this scheme.</p> <p><u>Background</u></p> <p>Purchasing new houses built by private developers through design and build packages on land owned by private developers is recognised by the Welsh Government as an acceptable method of developing new social housing and is used regularly by Housing Associations.</p> <p>This approach is seen as a way of supplying new housing comparatively quickly, where the risks associated with developing new houses remain with the developer.</p> <p>In terms of securing value for money, the Welsh Government has prescribed an acceptable cost guidance, based on competitive tender prices that have been received for building social housing, for the various types of units such as flats, bungalows and houses of differing sizes and different number of bedrooms across all parts of Wales.</p>

We do not currently take advantage of this method of developing new Council houses, but if we are serious about increasing our rented housing stock and want to be seen as contributing towards the target of 20,000 additional affordable housing units during this Government's term, this method would be a highly effective way of achieving this.

Procurement Rules

The proposal to purchase land with planning permission from owner / developers, and to enter into a development agreement with the same owner / developer will not be subject to the full public procurement regime requiring an OJEU Notice provided that the value of the scheme does not exceed the current threshold of £4,104,394. Where the value is below the current threshold any agreement reached with a developer/ owner must still be conducted in line with procurement best practice and also in line with the principles of the EC Treaty to afford fairness, competition, transparency, as well as in accordance with the Councils own Contract Procedure Rules.

Site Selection

The first step we will take as a Housing Service is to check the need for rented housing across the Island, and more specifically the need for the specific types of units.

We would select sites in consultation with the Land and Assets Group as a key part of achievement of our Place Shaping Strategy.

Having identified the need for new housing, we could prepare an advert and arrange to launch our new council housing development programme over the next 4 years and invite companies/developers who already own sites with planning permission to contact the service in order to discuss the opportunities.

The advert would note the number of new Council houses we intend to buy through this method over the 4 year period.

By following the above route, we would be seen to be transparent regarding the developers we choose to work with.

Priority would be given to developers who have schemes which are 'ready to go' but obviously, in announcing a 4 year scheme, companies/developers would know that we were looking for schemes and this would give them time to look for suitable opportunities.

Over the next 4 years, we anticipate that 400 additional units of social housing will be developed on the island, 195 by the Housing Service and 205 by the Housing Associations active on the Island.

Negotiating Terms

We will agree the requirements with regard to the design and specification of any housing development and any new Council houses purchased from developers would need to comply with the Welsh Government's Development Quality Requirements for social housing.

The Welsh Government's acceptable cost guidance has been designed to reflect land and house prices throughout Wales and is accepted as providing value for money for the specifications laid out within the development quality requirements.

In accordance with the Welsh Government's guidance for package schemes with private developers, we would expect the final cost of the completed development to be within the acceptable cost guidance.

We would appoint Quantity Surveyors as professional experts on construction costs, to advise us on the building costs and to verify that the sum we would be paying the developers reflects the market price and provides value for money.

We would agree a price with the developer for the finished development but would pay by instalments as the development proceeds in accordance with the JCT's standard Design and Build Contract 2016.

The work specification, the final price and the development timescale will be agreed and included as part of the building contract. This would make the developer liable for all risks associated with the cost and the timescale of the development.

The first payment to the developer would be based on the open market value of the land, as evidenced by a report from a professional valuer, and upon receipt of this payment the ownership of the land would be transferred to the Council. We would use the valuation provided by the Property Department as an external valuation would not be required. If we were to receive any capital grants from Welsh Government towards the development, then we would use an external valuer.

As the development proceeds, Quantity Surveyors appointed by the Council will evidence, on a monthly basis, the value of the construction work carried out during the month in order to release the payment to the developer.

Prior to agreeing formally with any developer to move ahead with a development, we will conduct a financial viability assessment for the development in accordance with the process that has already been submitted to the SLT and HSB and approved by the Section 151 Officer.

Prior to agreeing formally with any developer to move ahead with a development, we will also conduct a due diligence assessment of the developer, to ascertain whether the developer has the financial capability and resources to undertake a development of this scale at this time. The Finance Team would conduct this assessment.

The Value of the Asset compared with the Cost

Very often when developing social housing, the cost of providing them to the expected specification and quality is higher than the open market value of the houses.

This should not be regarded as an obstacle to proceeding to secure the development as the asset will never be sold on the open market. The asset is for social use and it will pay for itself through the rental income received by the Council over a long-term period of approximately 45 years.

This principle is accepted and recognised as a valid method of developing affordable housing by the RICS (Royal Institution of Chartered Surveyors) in their guidance note 'Valuation of Land for Affordable Housing', April 2016.

What is essential is that we're able to prove that we get value for the public money being paid for the asset.

We can do this through the Acceptable Cost Guidance procedure established by the Welsh Government for the development of social housing, and the value for money certification we will receive from Quantity Surveyors who will be acting on our behalf in any new development.

The Council's Land and Assets Policy

The Isle of Anglesey County Council's Constitution (September 2016) permits the delegation of responsibilities to Council Officers and defines the responsibilities which are delegated to Chief Officers.

It is noted within the Council's Constitution that the Head of Housing Services is responsible for leading the County Council's Housing Strategy and the Housing Revenue Account.

The Council's Asset Management Policy and Procedures (May 2016) also notes procedures with regard to the addition to, and disposal of, Council assets which specifically excludes Social Housing and the Housing Revenue Account. This Policy sits under the Head of Highways, Waste and Property

When the Council's Asset Management Policy and Procedures was formulated, the Housing Service had not started developing new Council housing and there is certainly no provision for this type of land and assets procurement included within the policy or within corporate procurement policies and guidelines.

If we were to adopt this method of developing new Council housing, the Council's Constitution would need to be revised so that our Legal Services can be satisfied that we are complying with our relevant policies and procedures.

Any new Council housing and social housing development would sit within the Housing Revenue Account, therefore it should be stated within the Constitution that the responsibility for any addition to, or disposal of such assets would rest with the Head of Housing Services.

Proposed amendments to the Council Constitution would be to add the following points to the Delegated Authority of the Head of Housing Services:-

1. To exercise the Council's Powers and duties to acquire plots of land for the purpose of new Council housing and social housing developments in consultation with the Local Members, the Housing Portfolio Holder and in accordance with the Councils' Housing Strategy and Plans.
2. To approve and deliver new Council housing and social housing development schemes.

The HSB has already agreed that any new Council housing development scheme comprising more than 10 units should be presented to the Executive Committee for its approval.

The Head of Housing Services, in consultation with the Section 151 Officer would be eligible to approve developments of less than 10 units provided funding was available in the HRA's Business Plan and annual budget.

Conclusions

We will require further legal advice when we have agreed the number of units and areas we will be looking to develop through this method to ensure that we do not leave the Council open to legal challenge with regards to the selection of companies/developers.

We will prepare an advert noting the number of new Council houses we wish to build every year using this method in order to be completely transparent when selecting companies/developers.

We will consult appropriately with other Services and report regularly to the Housing Services Board and the Land and Assets Group regarding any opportunities which have been presented by companies/developers.

Before making a formal agreement with any developer to proceed with a development, we will undertake a financial viability assessment on the development in accordance with the process which has already been presented to the SLT and the HSB and approved by the Section 151 Officer.

Before making a formal agreement with any developer to proceed with a development, we will undertake an assessment of due diligence on the developer, i.e. does the developer have the financial capability and the resources to undertake a development on this scale at this time.

When using this method to develop Council houses, the developer is liable for the risks associated with the development and it is considered to be a secure method of developing a high number of new houses of the required standard fairly quickly.

Unless we use our borrowing cap – approximately £13m there is a risk that Welsh Government will transfer this to another Local Authority in Wales.

B – What other options did you consider and why did you reject them and/or opt for this option?

Other methods of developing new Council housing have already been approved, these include buying back former Council houses, building new Council housing on HRA land and building new Council housing on land already owned by the Council.

This latest method supplements these methods.

C – Why is this a decision for the Executive?

C1. This is a decision for the Executive as it is a new method of purchasing/developing new Council housing.

D – Is this decision consistent with policy approved by the full Council?

The full Council have approved the Housing Revenue Account Business Plan which includes a programme for developing new Council housing.

DD – Is this decision within the budget approved by the Council?

D1. Yes – it is within the approved Business Plan of the Housing Revenue Account 2017-47.

E – Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	The report was submitted to the SLT on 20 February. The SLT supports the recommendation.
2	Finance / Section 151 (mandatory)	The Section 151 Officer is satisfied with the financial assumptions that have been used for assessing the financial viability of new developments.
3	Legal / Monitoring Officer (mandatory)	Supportive to the recommendation. Have suggested amendments to the Council Constitution as noted within the report.
5	Human Resources (HR)	Not consulted.
6	Property	
7	Information Communication Technology (ICT)	Not consulted.
8	Scrutiny	
9	Local Members	
10	Any external bodies / other/s	

F – Risks and any mitigation (if relevant)		
1	Economic	The Council's Capital Plans are subject to the Council's procurement arrangements and use Value Wales to measure Community Benefits and are therefore supported by the Economic and Community Regeneration Service.
2	Anti-poverty	A provision of new houses will offer comfortable homes for people most in need in our communities.
3	Crime and Disorder	
4	Environmental	
5	Equalities	
6	Outcome Agreements	
7	Other	

FF - Appendices:
None

G - Background papers (please contact the author of the Report for any further information):

NOTICE of the Decisions of The Executive held at the Council Chamber, Council Offices, Llangefni on Monday, 18 December, 2017

This Notice is published at 5:00pm on Thursday, 21 December, 2017. The deadline for the receipt of requests to call-in any decision must be made to the Chief Executive by no later than 5:00pm on Tuesday, 2 January, 2018. The decisions will become effective (if no valid call-in application is recorded) on Wednesday, 3 January, 2018.

Present: Councillors R Dew, John Griffith, Llinos Medi Huws (Chair) R. Meirion Jones, R G Parry OBE, FRAGS, Ieuan Williams, Alun W Mummery and Carwyn Jones

Also Present: Councillors Glyn Haynes, Kenneth Hughes, Aled Morris Jones, R. Owain Jones, Bryan Owen, Shaun Redmond, Peter Rogers

Apologies: Councillor Dafydd Rhys Thomas

(10:00 a.m. to 10:55 a.m.)

ITEM NUMBER AND SUBJECT MATTER	3 Minutes Not applicable
DECISION	It was resolved that the minutes of the previous meeting of the Executive held on the 27 November, 2017 be confirmed as a correct record.
REASON FOR THE DECISION	Not applicable
ELIGIBLE FOR CALL-IN?	Not applicable

ITEM NUMBER AND SUBJECT MATTER	4 The Executive's Forward Work Programme Report by the Head of Democratic Services
DECISION	It was resolved to approve the updated Forward Work Programme for the period from January to August, 2018 subject to the additional change outlined at the meeting.

REASON FOR THE DECISION	To strengthen accountability and forward planning arrangements
ELIGIBLE FOR CALL-IN?	Yes

ITEM NUMBER AND SUBJECT MATTER	5 Treasury Management Mid-Year Review 2017/18 Report by the Head of Function (Resources) and Section 151 Officer
DECISION	It was resolved to accept the Treasury Management Mid-Year Review Report 2017/18 and to forward the report to the Full Council without additional comment.
REASON FOR THE DECISION	To comply with the requirements of the CIPFA Code of Practice.
ELIGIBLE FOR CALL-IN?	No. The matter is to be considered by the Full Council

ITEM NUMBER AND SUBJECT MATTER	6 Transformation of the Library Service Report by the Head of Learning
DECISION	<p>It was resolved –</p> <ul style="list-style-type: none"> • To adopt the Draft Library Service Strategy 2017-2022 • That the proposed changes in the Draft Library Service Strategy 2017-2022 be actioned as follows: <ul style="list-style-type: none"> • Close Cemaes Library, Moelfre Library and Newborough Library, continuing to investigate mitigating actions such as community access points and/or increase mobile provision in the areas affected by closure. • Develop a collaborative model with Canolfan Beaumaris in respect of Beaumaris Library.

	<ul style="list-style-type: none"> • Receive a firm commitment from Llanfaelog Community Council in respect of Rhosneigr Library by 31 January, 2018. If no firm commitment is provided then proceed to close as per the first bullet point. • Implement Option C within the Draft Library Service costings (Appendix 5 of the report) – retain 22 hours or 2/3 of the staffing from the closed libraries within the staffing structure to help with mitigation and sustain performance against the WPLS standards.
REASON FOR THE DECISION	To progress the transformation of the Library Service.
ELIGIBLE FOR CALL-IN?	Yes

ITEM NUMBER AND SUBJECT MATTER	7 Development Path for Council Housing - Design and build packages by developers Report by the Head of Housing Services
DECISION	<p>It was resolved –</p> <ul style="list-style-type: none"> • To approve the purchase of new houses built by private developers through design and build packages on lands that are owned by the private developers. • To recommend to the Full Council that the Scheme of Delegation be amended to reflect the additional powers required to realise the transactions required by this scheme.
REASON FOR THE DECISION	To facilitate the development of new Council housing
ELIGIBLE FOR CALL-IN?	Yes

CONFIDENTIAL ITEM

ITEM NUMBER AND SUBJECT MATTER	9 Schools' Modernisation - Llangefni Area - Strategic Outline Case/Outline Business Case Report by the Head of Learning
DECISION	It was resolved to defer consideration of this matter to a later date.
REASON FOR THE DECISION	To progress the School Modernisation Programme
ELIGIBLE FOR CALL-IN?	Yes

3.5.3.12 Head of Service (Housing)

3.5.3.12.1 lead Anglesey County Council's housing strategy and the management of housing stock; providing strategic and operational leadership across the service to ensure Anglesey's public housing stock demonstrates excellence against the Welsh Housing Quality Standard. Develop the strategy and effective delivery of a range of community related initiatives and programmes (including community safety and social cohesion)

3.5.3.12.2 provide the strategic leadership for the following diverse range of services, projects and initiatives which focus resources on the development of an efficient and effective organisation:

Generally

- Housing Strategy
- Housing Revenue / Finance
- Allocations / Homeless
- Tenant Management
- Housing Estate Management
- Supporting People
- Building Housing Maintenance Unit
- Community Safety, Social Cohesion (gypsy travellers etc.) Anti-Poverty Policy, Communities First
- Social Housing Development (to include the acquisition and/or disposal of land and/or housing units for the purpose of increasing/managing the Council's social housing stock)

Specifically

3.5.3.12.3 lead the strategic and operational housing agenda across the Council; ensuring key housing messages are co-ordinated and consistent across Anglesey and that they reflect the community and social development agenda

3.5.3.12.4 develop a range of integrated and effective community initiatives to tackle safety, cohesion, poverty and community empowerment as part of a coordinated "place" approach to housing

3.5.3.12.5 ensure that statutory functions are discharged in accordance with homelessness legislation and disabled facilities grants, and support other social care responsibilities around quality and access to provision

3.5.3.12.6 manage housing capital and revenue budgets for both public and private housing sectors, driving value from funding and drawing wider income generation where possible

Manage, maintain, issue, develop, approve, administer, determine and implement the following services:-

3.5.3.12.7 day to day management of Council's housing stock including garages

3.5.3.12.8 day to day management of repairs and maintenance of Council housing stock including garages

- 3.5.3.12.9 capital/revenue planned maintenance programme
- 3.5.3.12.10 the Council's Housing List
- 3.5.3.12.11 allocation of tenancies
- 3.5.3.12.12 allocation of temporary housing including emergency accommodation (up to 2 years)
- 3.5.3.12.13 transfers
- 3.5.3.12.14 exchanges
- 3.5.3.12.15 national/local mobility schemes
- 3.5.3.12.16 successions in accordance with Sections 87/89 Housing Act 1985
- 3.5.3.12.17 homelessness (Part VII Housing Act 1996)
- 3.5.3.12.18 adaptations to Council property for the benefit of disabled persons
- 3.5.3.12.19 authorising terminating of tenancies
- 3.5.3.12.20 issue of Notices Seeking Possession and Notices to Quit and authorise the commencement of legal proceedings to recover possession of Council property
- 3.5.3.12.21 applications from tenants or owners (following the Right to Buy) for alterations, repairs and improvements to their property
- 3.5.3.12.22 tenancy and estate management matters
- 3.5.3.12.23 name Council estates after consultation with the local member(s) and the Community Council
- 3.5.3.12.24 to publish all information as required either by statute or by Council policy
- 3.5.3.12.25 Private Sector Renewal - Renewal Areas, Group Repair Schemes and Housing Grants including contributions from participants in accordance with the Housing Grants, Construction and Regeneration Act 1996
- 3.5.3.12.26 remove, store, dispose of or destroy (after 3 months) all goods removed from Council accommodation following the death of any tenant or where it is reasonably assumed that the property has been abandoned
- 3.5.3.12.27 recover costs from any tenant or a deceased tenant's estate
- 3.5.3.12.28 Right to Buy, including valuations and exercising pre-emption rights where housing needs exists, including plots for sale and any other property previously sold by the Council

3.5.3.12.29 the Right to Manage

3.5.3.12.30 the Right to Compensation

3.5.3.12.31 transfers/guarantees to building societies on low cost home ownership schemes

3.5.3.12.32 enter any property for the purpose of survey and examinations (Section 54 Housing Act 1985)

3.5.3.12.33 issue all notices in accordance with Section 54 Housing Act 1985

3.5.3.12.34 issue Notices and execute powers relating to Repair Notices (Part VI Housing Act 1985) Area Improvement (Part VIII Housing Act 1985), Houses in Multiple Occupation (Part XI Housing Act 1985 as amended), General Financial Provisions (Part VI Local Government and Housing Act 1989), Loans for Acquisition or Improvement of Housing (Part XIV Housing Act 1985), Grants for works of improvement, repair and conversion (Part XV Housing Act 1985), Assistance for owners of defective housing (Part XVI Housing Act 1985), Compulsory Purchase and Land Compensation (Part XVII Housing Act 1985), Miscellaneous and General Provisions (Part XVIII Housing Act 1985)

3.5.3.12.35 Low Cost Home Ownership Scheme

3.5.3.12.36 rent collection and arrears management, including former tenant arrears collection

3.5.3.12.37 Community Care Liaison and Tenant Participation

3.5.3.12.38 renovation grants, strategies, policy development, renewal areas and group repair schemes

3.5.3.12.39 Empty Properties, Houses into Homes (loans)

3.5.3.12.40 first time homeowner loans and grants for first time buyers

3.5.3.12.41 home buy equity loans and partnership with RSLs

3.5.3.12.42 housing partnership

3.5.3.12.43 Affordable housing – social housing grant / social capture grant administration; small properties grant and revenue from the Welsh Government, affordable housing developments, commuted sums budget and allocation as per TAN 2

3.5.3.12.44 Housing lead on Energy Island developments

3.5.3.12.45 Enforcement powers in respect of vacant houses

[3.5.3.12.46 to exercise the Council's powers and duties to acquire/dispose of land /housing units for the purpose of new social housing developments in consultation with local Members, the Executive member with responsibility for Housing, the Head of Service](#)

(Highways Waste and Property) and in accordance with the Council's Housing Strategy, Plans and Policies from time to time.

3.5.3.12.47 to approve and deliver new Council housing / social housing development schemes, whether in partnership with registered social landlords, developers or otherwise

3.5.3.12.48 to comply with all legal requirements in respect of tendering, procurement procedures whether internally or externally so far as they are applicable to any new housing schemes and/ or developments

3.5.3.12.49 to account and be responsible for any acquisition or disposal of assets made via the Housing Revenue Account

3.5.3.12.50 to report and seek approval from the Executive to proceed in the event that a housing development scheme comprises more than 10 units. Schemes of less than 10 units may be approved by the Head of Service (Housing) in consultation with the s151 Officer, provided that funding is available in the Housing Revenue Account's business plan and annual budget.

3.5.3.12.51~~46~~ the following powers of the Council as contained in the Anti-social Behaviour, Crime and Policing Act 2014:

- a) the power as regards injunctions contained in Part 1 of the Act;
- b) the powers relating to community protection notices as contained in Chapter 1 of Part 4 of the Act;
- c) the powers with regard to closure of premises associated with noise or disorder as contained in Chapter 3 of Part 4 of the Act;
- d) the powers of recovery and possession of dwelling houses on anti-social behaviour grounds as contained in Part 5 of the Act.

3.5.3.12.52~~47~~ to carry out the functions directed by the Chief Executive, or his/her nominee, and as described in the relevant job description as amended from time to time