

Appendix 2: Review of potential opportunities to increase the amount of Social Rent housing in East Herts

1. Background

1.1 Definitions of affordable housing for rent

There are two principal forms of affordable housing for rent; Social Rent housing and Affordable Rent housing. Both forms of housing can be provided by local authorities or registered providers. Both forms of housing are let in the same way on the same tenancy terms. The only difference between the two is the way in which the rents are set.

- **Social Rent housing** is affordable housing for rent with *rents set in accordance with a formula prescribed by central government*. The formula will result in rents that will vary property-by-property as the individual property's rent is calculated according to the market value of the property, the size of the property and the local income levels in the area in which the property is located. In East Herts, feeding *local* property values and incomes into the *national* formula results in Social Rents typically being at around 50% of local market rents but it is worth remembering that local market rents do *not* have any bearing on Social Rents.
- **Affordable Rent housing** was introduced 2011. Such properties are subject to a different mechanism for setting the rent than Social Rent. In this case, the registered provider may set a rent which, when combined with service charges if applicable, can be *up to a maximum of 80% of the market rent in the locality*. It is for the registered provider to work out the rent level for an individual property, with the Valuation Office Agency overseeing the process. Unlike Social Rents, Affordable Rents are set solely in relation to local market rents.

1.2 Why are there two types of rents?

The government's aspiration when introducing Affordable Rent housing was to provide local authorities and registered providers with a higher rental income against which to borrow. If the housing organisation can borrow more, it will require less subsidy from the government to develop new homes, thus more homes could be developed from the same national resources or indeed, the national pot could be reduced without a corresponding reduction in new affordable housing delivery.

At the same time as introducing Affordable Rent housing, the government enabled registered providers to switch the rent of an existing property from a Social Rent to an Affordable Rent when it became vacant. This again was to increase providers' income that could be used to fund borrowing for new build housing.

1.3 How much Social Rent and Affordable Rent housing is there in East Herts?

Although virtually all newly provided housing in East Herts over the last decade has been let with Affordable Rents and some existing homes have been switched to Affordable Rents, there is still a considerable supply of existing homes with Social Rents.

Detailed records of the rent levels charged for all 8,300+ rented affordable homes in the district do not exist, although officers are currently exploring with the two largest registered providers, Network Homes and Clarion Housing, what information they can share.

Interestingly, an analysis of the reletting of *existing* homes during 2021/22 found that, excluding first time lets of new homes, 75% of all relets were at Social Rents and only 25% of relets were at Affordable Rents. This indicates that a significant number of existing properties in the district have Social Rents rather than Affordable Rents.

1.4 How is new affordable housing for rent developed in East Herts?

The council transferred its housing stock in 2002. So, since then, only registered providers have owned and developed affordable housing.

There are two principal ways in which new affordable housing is developed.

- **Registered provider-led development.** In this instance, the registered provider itself builds homes on land it already owns, say on one of its estates, or has purchased on the open market. There is very little registered provider-led development in East Herts because the registered providers do not own much developable land on their estates (of note, Network Homes' new build at The Ridgeway in Hertford relied on freeing up land by knocking down outdated blocks of flats) and land in East Herts is in such high demand that private developers can always outbid them.
- **Developer-led development.** Here, a private developer will build new housing with a proportion, ideally 40%, to be affordable. The provision of affordable housing is enshrined in a legally binding planning agreement (often referred to as a Section 106 agreement after section 106 of the Town and Country Planning Act 1990 which introduced such agreements). In these instances, the private developers will build the affordable housing and sell it to the registered provider which offers the highest receipt. Virtually all new affordable housing in East Herts over the last decade has been provided in this way.

The current East Herts District Plan (October 2018) and current East Herts Affordable Housing Supplementary Planning Document (May 2020) do *not* distinguish between Affordable Rent and Social Rent in terms of the overall need for affordable housing for

rent in the district and so there is no policy lever the council can use to enforce the development of homes for Social Rent as opposed to Affordable Rent.

1.4 Do Affordable Rent homes always have to have higher rents than Social Rent homes?

The simple answer is 'no'. This is because the definition of Affordable Rent is *up to* 80% of local market rents. Therefore, if a property had a rent below 80% of the market rent, it would still be an Affordable Rent home because its rent is set in relation to local markets rather than in accordance with the national formula for Social Rent. However, in this instance the Affordable Rent home could have a rent near, at or even below a Social Rent.

This is a rather technical point and it is officers' understanding that members are not so much interested in the mechanism for setting the rent (essentially the only difference between an Affordable Rent and a Social Rent) as they are eager to see more homes with Social Rents or Affordable Rent homes with rents set at levels akin to Social Rents. For ease of discussion, from herein the term 'Social Rent' is used interchangeably to be mean a Social Rent or a low Affordable Rent at a level akin to a Social Rent, regardless of which mechanism is used to determine that rent.

In reality, because registered providers (a) have been encouraged by central government to maximise their borrowing so as to build more homes and (b) are required by private developers to bid against each other to buy the affordable housing delivered through section 106 agreements, rents are almost always set at 80% of local market rents (or the local housing allowance) and not significantly below.

1.5 How is new affordable housing development funded?

For a property to be let at below market rent (whatever that rent level is), subsidy is required. The main sources of subsidy are as follows.

- **Private developer subsidy through section 106 agreements.** Here, the obligation on the developer to provide affordable housing will see a proportion, ideally 40%, sold to a registered provider at below open market value. Because the developer is providing this subsidy, Homes England will not ordinarily provide any additional Affordable Housing Grant.
- **Registered providers' loans.** Registered providers borrow money from banks and private investors with the capital repayment and interest on the loan paid from rental income.

- **Registered provider subsidy from their own resources.** Registered providers may be able to reduce the level of borrowing that will need to be repaid from newly built homes' rents by subsidising that new provision from a mixture of:
 - reserves built up over time
 - borrowing funded not from the rents of new homes but from higher income resulting from switching existing properties' previously Social Rents to Affordable Rents when they become vacant
 - commercial income, such as from building homes for market sale or market rent.
- **Homes England Affordable Housing Grant.** These grants are funded from national funds made available for affordable housing development and distributed by Homes England. As noted above, Homes England do not ordinarily provide grant for homes developed through a section 106 agreement. Grants are, however, available for development on a registered provider's own land.
- **Local authority subsidy.** Local authorities are legally allowed to use capital, from whatever source, to subsidise new affordable housing. As East Herts Council has exhausted its capital reserves, it would need to borrow in order to provide grants to registered providers; this is legally allowable but has revenue implications as the council would need to pay interest on the borrowed money and make provision to pay back the sum borrowed from its day-to-day revenues. The council does, however, have a reserve of commuted sums. These are payments from developers given to the council in lieu of affordable housing as part of their development in cases where the council found this acceptable.

2. How much are Social Rents and Affordable Rents in East Herts?

The following analysis compares Social Rents charged in East Herts with market rents.

	Rent per calendar month – East Herts-wide averages, 2021/22				
Property size	Social Rent for existing properties (% of market rent)	Market rent	Imputed Affordable Rent at 80% of market*	60% of market rent	50% of market rent
1 bedroom	£446 (52%)	£853	£682	£510	£425
2 bedroom	£565 (51%)	£1,100	£880	£660	£550
3 bedroom	£604 (42%)	£1,425	£1,140	£926	£713
4 bedroom	n/a	£1,978	£1,582	£1,187	£989

* In some cases, the actual rent will be capped at the Local Housing Allowance.

The table indicates that Social Rents are around 50% of market rents. Given that it is reasonable to reflect new build premiums in the market in new build rents for affordable housing, especially as new build properties are more energy efficient and have higher accessibility standards, it would appear reasonable to consider a new build rent of 50% to 60% of the market rent to equate to a Social Rent for a new build.

3. Potential opportunities to provide more homes with Social Rents

Based on research and discussion with registered providers, Homes England and other partners, officers have drawn up ten potential opportunities for providing more homes at Social Rent.

An initial consideration of the opportunities in terms of practicability and deliverability has been carried out by Housing officers with, as a result, the ten potential opportunities presented under three categories:

- a) opportunities it is proposed to pro-actively explore with internal and external partners
- b) opportunities where further evidence of practicability and deliverability is required to determine whether to pro-actively explore the idea with partners
- c) opportunities with limited practicability and deliverability which it is not proposed to prioritise at this time

3.1 Opportunities it is proposed to pro-actively explore with internal and external partners

Opportunity 1: On new build developments, the council provides a grant to a registered provider in return for a lower rent being charged

How would this work?

Registered providers use an element of the income raised from rent to pay the interest charges on the money they borrow to buy the property in the first place.

So, if the council provided a grant to the registered provider, the registered provider would need to borrow less meaning there would be less interest for them to cover from the rent and so a lower rent could be charged.

Implications for the council?

In July 2022, East Herts Council held a total amount of commuted sum of £1,834,461 paid by developers in lieu of providing affordable on their developments. This money must be used for affordable housing purposes as a condition the planning agreements (often referred to as a Section 106 agreement after section 106 of the Town and Country Planning Act 1990 which introduced such agreements).

East Herts Council could use the monies to provide a grant to a registered provider to offset them borrowing money. Reduced borrowing by the registered provider means lower interest is payable from the rental income and so a lower rent could be charged. Indeed, a lower rent would be a condition of the council's grant being made.

Modelling provided by a registered provider currently developing in East Herts provides an illustration of the amount of grant needed to reduce the rent from an Affordable Rent.

2 bedroom house:

- £80,000 grant required per property to reduce rent to 50% of market rent
- £42,250 grant required to reduce Affordable Rent to 60% of market Rent

3 bedroom house

- £95,000 grant required per property to reduce rent to 50% of market rent
- £44,000 grant required to reduce Affordable Rent to 60% of market Rent

4 bedroom house

- £124,000 grant required per property to reduce rent to 50% of market rent

- £67,000 grant required to reduce Affordable Rent to 60% of market Rent

How many Social Rent homes could be provided?

For example, if the council's current reserves of £1.8m commuted sums were used to provide a mix of 40% two bedroom, 40% three bedroom and 20% four bedroom homes this would yield a total of:

- 38 homes with a Social Rent at 60% of an Affordable Rent **or**
- 19 homes with a Social Rent at 50% of an Affordable Rent.

Advantages

- i) This would lower the rents of new build affordable homes to or around Social Rent levels.

Disadvantages

- ii) The number of homes for which rent levels could be reduced would be limited by the amount of commuted sums held by the council.

Opportunity 2: Council accepts fewer homes on a developer-led site in return for some homes at Social Rent

How would this work?

While the council's District Plan does not oblige a developer to provide homes at Social Rent, through negotiation, the council could seek to have some included.

Lower rents mean less income to the registered provider to cover the interest on money it borrows, so it could not afford to pay as much for a property to be let at a Social Rent, as opposed to an Affordable Rent. As a result, it is highly likely that the developer will not deem the overall housing development to be financial viable unless fewer affordable homes are provided, allowing the developer to sell a greater proportion of the homes on the open market.

The overall result would be more homes than otherwise with Social Rents but fewer affordable homes overall.

Implications for the council?

On the face of it, there are no direct financial implications as no subsidy would be required from the council. It should be noted, however, that this potential approach would see more Social Rent homes at the expense of the overall amount of new

affordable housing developed which could have a knock-on effect on the council's ability to assist homeless households in a timely way. It is worth noting that a homeless household placed in bed and breakfast accommodation currently costs the council at least £190 per week.

How many Social Rent homes could be provided?

The number of Social Rent homes provided in this way will depend on the council's willingness to agree to less than 40% affordable housing on a developer-led site and developers' willingness to voluntarily agree to a tenure mix outside of the District Plan's requirements.

Advantages

- i) The development of more homes at or around Social Rent levels.

Disadvantages

- i) A likely overall reduction in the amount of affordable housing as fewer Social Rent homes would be developed in place of Affordable Rent homes. It is worth noting that Affordable Rent *is often still affordable to households in housing need.*
- ii) Restricting the supply of affordable homes for those households who need to move on from temporary accommodation to more settled housing.

Opportunity 3: Sale of council land for Social Rent new build

How would this work?

The council would sell land to a registered provider with a covenant on the land that only Social Rent homes can be built. The registered provider would then build, own and rent out the homes.

Implications for the council?

This council would benefit from the capital value of the land.

The council could use its commuted sums to subsidise the development.

How many Social Rent homes could be provided?

This, of course, would be determined by what land the council has and how easy to develop that land is. The truth is that the council has very limited land and what it does have rarely lends itself to development, as it is either in the form of (a) grass

verges and the like or (b) a revenue-generating asset such as a car park – see approach #8 below. Therefore, a detailed appraisal of the developability of any small parcels of council-owned land will need to be carried out.

Given the pressures on the council's budgets, the Head of Strategic Finance and Property has indicated that it would *not* be financially prudent for the council to dispose of any plots of land identified at nil or below market value although this would be legally allowable if sold for affordable housing. So, the expectation would be that any land identified is sold at market value (on terms so that the value of the planning permission subsequently gained by the registered provider would be retained by the council).

Homes England have recently introduced funding specifically for homes for Social Rent in local authority areas designated 'areas of high affordability pressure'; East Herts is one such area, so a registered provider could potentially access grant funding. Small developments can have higher per unit costs, so subsidy may still be required from the council.

Advantages

- i) The council could sell the land with a restriction that only homes for Social Rent can be built. It should be noted that this would most probably fetter the land's value so this would have to be carefully considered as it would reduce the receipt to the council.
- ii) Unlike on developer-led sites, the developing registered provider would have greater control over the design of the homes and potentially the registered provider could allow the council some influence.
- iii) The council, if willing to provide the necessary subsidy, could require higher build standards, such as Passivhaus.

Disadvantages

- i) The supply of sites for redevelopment in East Herts is extremely limited and no site is without issues such as access rights and topography.
- ii) Smaller sites can present development difficulties and increased costs because of a lack of economies of scale, thus registered providers may be reluctant to take on a site and/or the council may be required to provide relatively high levels of subsidy per unit.

Opportunity 4: Development of rural exception sites

How would this work?

A rural exception site is plot of land in a rural locality, typically in/adjacent to/near a village, on which planning permission would not ordinarily be given but will be if the following conditions are satisfied:

- the exception site is adjacent to an existing built-up area boundary or is related to existing residential development and local amenities
- the proposed development will contribute towards meeting an identified need for affordable housing in the parish
- the proposed development would be appropriate to the settlement and area in which it is proposed to be located.

As the value of the land is fettered by these requirements, its reduced price can enable affordable housing to become viable.

Implications for the council?

East Herts Council's Planning Policy HOU4 sets out the council's policies regarding affordable housing development on rural exception sites. The council's Housing service typically assists parish councils in devising proposals, often with a registered provider partner.

The council could use its commuted sums to subsidise the development on rural exception sites.

How many Social Rent homes could be provided?

Numbers are hard to quantify.

Development on rural exception sites is not as straightforward as it may first appear. There needs to be a suitable site with an owner willing to sell it for this purpose and local needs have to be established. There is also a risk of local opposition as affordable housing development in a small rural community is not always universally welcomed. In addition, the difficulty of achieving sufficient economies of scale on what are typically small sites only adds to the complexity. Perhaps unsurprisingly, few rural exception sites have been developed in recent years in East Herts.

That said, development on rural exception sites is far from impossible and some registered providers specialise in such development. The council could use its commuted sums to support development.

Advantages

- i) Rural exception sites must provide affordable housing with open market housing only allowable if it is absolutely necessary to bring forward a predominantly affordable scheme.
- ii) Schemes need to be designed to meet the needs of local community which could include the need for Social Rent.

Disadvantages

- i) Sites are likely to be small so affordable housing grant and other sources of investment would be required to ensure viability, even if some market homes were permitted to subsidise rents. It may be difficult to achieve viability while setting rents at a sufficiently low level to conform with Social Rent levels. Council financial support could potentially help.
- ii) The development would be tied to local housing needs so would be available to a limited number of households.

3.2 Opportunities where further evidence of practicability and deliverability is required to determine whether to pro-actively explore the idea with partners

Opportunity 5: Vary tenures within a developer-led site – retain the overall number of affordable homes but provide a small number of Social Rent homes by increasing the number of Low Cost Home Ownership homes (usually Shared Ownership) homes

How would this work?

It is understood that low cost home ownership properties, including shared ownership homes, typically have a higher value to a registered provider than a rented home. This is because the registered provider is able to realise at least a proportion of the capital value of the property from the initial tranche sold with more income from the sale of subsequent tranches. On developer-led sites, this translates into the registered provider paying the developer a higher price for a low cost home ownership property than a rented property.

So potentially, the *same overall number* of affordable homes (delivered by the typically 75% Affordable Rent and 25% shared ownership homes) could be delivered but with a different mix including Social Rent. The lower price paid by the registered provider to the developer for each Social Rent home would be balanced by acquiring

proportionally more shared ownership homes. So, perhaps, the same number of affordable homes could be provided but with a mix of, say, 10% Social Rent and 90% shared ownership homes – note: the exact percentages will need to be calculated through more detailed discussion with registered providers.

Implications for the council?

The council's District Plan calls for a mix of affordable housing on a site to be 84% affordable rented and 16% shared ownership. To accommodate more recent national planning guidance, the mix is now more typically 75% affordable rented and 25% shared ownership. The council can, however, vary this mix in response to a developer's viability assessment or, as is suggested here, to effect a tenure mix more favourable to local need.

How many Social Rent homes could be provided?

As noted above, this is unclear without more detailed modelling and discussion with developers and registered providers. Of note, it is not immediately apparent how much the proportion of shared ownership homes would have to increase in order to cross-subsidise the inclusion of Social Rent homes. It could be the case that the balance is skewed too heavily towards shared ownership homes to make this approach acceptable in housing need terms.

Advantages

- ii) The development of more homes at or around Social Rent level.
- iii) Incidentally, the development of more shared ownership homes although this could be achieved without the inclusion of Social Rent homes.

Disadvantages

- i) A reduction in the number of affordable homes for rent, whether for Social Rent or Affordable Rent.
- ii) This approach can lead to skewing towards shared ownership which is vastly out of balance with local housing need.

Opportunity 6: Convert existing properties from Affordable Rent to Social Rent

How would this work?

The council would seek to encourage registered providers to reduce the rent levels of some of their Affordable Rent homes through the payment of a grant.

Implications for the council?

The council could *possibly* use its affordable housing commuted sums for this purpose, although the terms of the individual section 106 agreements typically refer to the provision of affordable homes in lieu of on-site provision. As this approach would not increase the overall number of affordable homes, it may fall foul of the agreements.

How many Social Rent homes could be provided?

This is hard to judge without detailed discussions with registered providers.

Officers have, however, consulted Homes England (the government's affordable housing grant giving agency). Homes England have pointed out that under agreements struck between the agency and individual registered providers in order to access housing grants, the registered providers typically agreed to increase their incomes from rent, so as to borrow more money to develop more homes, by switching Social Rents to Affordable Rents when a property becomes vacant.

While locally active registered providers rarely convert existing homes to Affordable Rent in East Herts these days, there is a legacy of properties where the rent was switched from Social Rent to Affordable Rent. The incomes from these 'converted' properties have been built into registered providers' business plans and so they may find it very difficult to switch them back to a Social Rent because (a) this would fall foul of their agreement with Homes England and/or (b) this would leave a financial hole in their finances. A council grant *might* be able to fill that hole but this would be for the registered provider to determine.

Advantages

- i) Within existing housing stock, there would be an increase in the number of homes available for Social Rent with a corresponding decrease in the number of homes available for Affordable Rent.

Disadvantages

- i) Conversion from Affordable Rent to Social Rent will not result in any additional affordable homes.
- ii) The use of commuted sums may not be permitted for this purpose, as this approach will not create any additional affordable housing, and so the

council would have to fund this approach from its own borrowing which would not be cost-effective.

- iii) Homes England may disallow such conversions if they conflict with their agreements with individual registered providers.

Opportunity 7: Fund registered providers to purchase homes on the open market and let them at Social Rent

How would this work?

The council could provide grants to registered providers to buy properties on the open market and let them at a Social Rent.

Implications for the council?

The council could use its commuted sums for this purpose.

How many Social Rent homes could be provided?

Detailed discussions with registered providers would be needed to determine the number of properties that could be developed. That said, the figure is likely to be lower than the number accruing from the conversion of new build homes from Affordable Rent to Social Rent because there would be no developer subsidy in the financial mix. As an example, for new build on a developer-led site, the developer may discount the open market value by around 30% when selling the property to a registered provider for Affordable Rent. If the registered provider was buying from a home owner on the open market, there would be no discount and so if the registered provider was still able to provide funding for 70% of the value, the council would have to provide 30% of the value just to deliver an Affordable Rent home (unless the purchase price was considerably under the new build price although this would also depress the rent and so the amount the registered provider was prepared to pay without council subsidy) plus more to make it a Social Rent home.

Advantages

- i) The homes would be available for use within a relatively short space of time as purchase on the open market will be far quicker than through new build.
- ii) Existing properties would not have the same price premiums as new build properties and so, to a degree, the council's grant could be stretched

further, although property values do impact rent levels and thus the monies registered providers can raise without council subsidy.

Disadvantages

- i) Without the developer subsidy accessed through section 106 agreements, the council would most probably have to provide more subsidy per property.
- ii) Because of high house prices in the East Herts district, the number of existing homes which could be purchased would be relatively small.

Opportunity 8: Grant a lease to a registered provider to build over a council-owned ground level car park in return for Social Rents

How would this work?

The council could provide a long term lease to a registered provider to build on stilts over a council-owned ground level car park. The registered provider would then build, own and rent out the homes.

Implications for the council?

The council would benefit from the capital value of the disposal on a long lease while retaining the much needed revenue income from the car park on the ground level.

The council could use its commuted sums to subsidise the development.

How many Social Rent homes could be provided?

This is hard to determine without detailed discussions with a number of parties, notably the council's Finance and Planning teams in the first instance and registered providers.

Such a development would require a certain number of units in order to be viable and so, quite possibly, such a scheme would need to consist of at least two storeys above the ground use for car parking. This would in turn determine which, if any, council-owned car parks would be suitable.

Over the last year, a local registered provider has held very preliminary discussions about developing in this way on one of the district's car park and officers are aware of

other councils which have enabled this type of scheme. A good recent example is the Hope Rise development in Bristol.

A scheme of this type lends itself to modern methods of construction with the attendant benefits of speed of construction, sustainability and increased access to Homes England grant.

Advantages

- i) This could be a way to reduce prohibitive land costs from a development, with the lower development costs in turn enabling Social Rents.
- ii) Productive use could be made of the East Herts Council's land assets without losing the income from their current use.
- iii) Developments using modern methods of construction attract a higher level of grant from Homes England's Affordable Housing Development Programme.
- iv) Unlike on developer-led sites, the developing registered provider would have greater control over the design of the homes and potentially the registered provider could allow the council some influence.

Disadvantages

- i) At present there is no precedent for this type of development in East Herts, which means that establishing the financial model regarding the council's land and gaining planning permission would in all probability take longer than for a traditional development.
- ii) Registered providers may have limited appetite for such an innovative approach, for example, they may have concerns about the mortgageability of homes developed in this way and their ability to retain their value as assets. That said, one local registered provider has already approached officers about this approach.

Opportunity 9: Registered providers build for Social Rent on their own land

How would this work?

The council could encourage registered providers to buy land on which to build or build on underused land on their estates, notably estates owned by Network Homes and Clarion Housing, to develop 'infill' sites, such as underused garages, drying areas.

As noted above, competition for private land for residential land is extremely strong in East Herts and registered providers are, in effect, locked out of the market because they cannot match private developers' offers. So, development on small site within estates would be more practicable.

Homes England could provide affordable housing grant for Social Rent development on registered providers' own land.

Implications for the council?

The council would need to signal a supportive stance on densification of existing estates and removal of garages as in the past planning considerations have been onerous and in some cases prohibitive. In addition, where the council has retained small plots of land on its former estates, it would probably need to dispose of these to the registered provider, possibly at their existing use value.

The council could use its commuted sums to provide grant for such development which could be combined with Homes England grant if/as necessary.

How many Social Rent homes could be provided?

Detailed discussions with registered providers would be required to determine the number and ease-of-development of any such infill sites before the number of homes that could be developed could be determined.

Of note, Network Homes has a track record of redevelopment on its Sele Farm estate and is already in talks with the council about further development in the area. Thus far, detailed discussions regarding tenure have yet to commence.

Affordable housing grant, however, is usually required for the redevelopment of smaller sites because of lack of economies of scale. A registered provider's recent attempts to redevelop three former garage sites in Ware have been hindered by difficulties in obtaining grant from Homes England.

Advantages

- i) Unlike on developer-led sites, the developing registered provider would have greater control over the design of the homes and potentially the registered provider could allow the council some influence.
- ii) Infill development can be tied in with wider regeneration. Network Homes' redevelopment of The Rigdeway in Hertford is a good example of this.

- iii) As the registered provider already owns the land, land acquisition costs can be deducted from the total scheme costs thus enhancing viability and potentially making the provision of Social Rent easier.

Disadvantages

- i) Smaller sites can present development difficulties and with increased costs because of a lack of economies of scale, viability issues can erode cost-effectiveness. Council use of commuted sums as subsidy could potentially help.
- ii) There can be difficulties in obtaining sufficient grant funding for this type of development.
- iii) Infill development is particularly prone to difficult planning issues such as 'over-looking', neighbour objections and established rights of way over the site.

3.3 Opportunities with limited practicability and deliverability which it is not proposed to prioritise at this time

Opportunity 10: Use of council-owned flats over shops for Social Rent

How would this work?

The council could convert the commercial leases attached to flats over shops in its ownership with a view to making the properties available for Social Rent, perhaps through the granting of a long lease to a registered provider.

Implications for the council?

The council owns a small number of flats over shops across the district, however, they are all let on business tenancies as part of the commercial leases of the shops below. The council gains a much needed revenue income from these commercial leases.

It would be legally very difficult, if not impossible, to end these commercial leases early so as to regain possession of the residential flats. Even if this was done when, say, the shop and flat become vacant, the council may find it difficult to lease the shop again without the flat. The views of the council's Property team would be required on this.

If the council were to decide to split the shop and residential leases apart, while the 200 homes minimum number necessitating the opening of a housing revenue account by the council would not be met, the council would still have to provide

secure tenancies with the Right to Buy, Right to Repair and other obligations. It would also be subject to the various annual accounting and reporting requirements. Thus, it would be preferable to grant a long lease of the residential units to a registered provider so as to avoid these onerous requirements.

The acquiring registered provider could possibly require a capital dowry from the council to bring the properties up to the Social Housing Regulator's lettable standard. This could be funded from commuted sums. Furthermore, it is possible that the council would need to lease the units at a peppercorn (essentially a nil income) so as to enable the registered provider to afford to let them at a Social Rent. This would deprive the council of much needed revenue income.

How many Social Rent homes could be provided?

There are currently twenty council-owned flats above shops, however, the issues outlined above suggest that this would be an unduly difficult route to the provision of Social Rent housing and so officers would suggest no units could readily be provided in this way.

Advantages

- i) The flats are already in existence and so would not have all the planning issues of new build or conversion of use.

Disadvantages

- i) The flats are all let on business tenancies as part of the shop lettings. They could not easily be separated from the shops as the tenants have protection under the Landlord and Tenant Act 1954. If a valid reason is presented, it could be possible to negotiate the removal of the leases, but East Herts Council would be required to negotiate statutory compensation which would be costly.
- ii) The properties would most likely need to be let at a peppercorn to a registered provider thus depriving the council of a revenue income.