

Appendix 1. DRAFT

Birmingham City Council – Community led housing policy.

1. Introduction

Community-led housing (CLH) is about local people playing a leading and lasting role in solving local housing problems, creating genuinely affordable homes and strong communities in ways that are difficult to achieve through mainstream housing. It can be the key element of delivering wider community Led regeneration in neighbourhoods.

The governments Community Led Homes Fund (the CLH Fund) has stated that in order to ensure that the schemes supported by the CLH Fund are truly community-led, proposals should ensure that:

- meaningful community engagement and consent occurs throughout the development process. The community does not necessarily have to initiate and manage the process, or build the homes themselves, though some may do;
- the local community group or organisation owns, manages or stewards the homes and in a manner of their choosing, and this may be done through a mutually supported arrangement with a Registered Provider of Social Housing that owns the freehold or leasehold for the property; and
- the benefits to the local area and/or specified community must be clearly defined and legally protected in perpetuity.

Birmingham has a rich heritage of community based housing that provide homes for local citizens and offer a range of added value through developing social capital. Examples include:

Housing Cooperatives
Self build and Self Help Housing
Community-led regeneration
Tenant Management Organisations

The World Habitat CLH dataset for 2017 identifies 28 projects in Birmingham with a total of 2,694 homes, of which 2,424 (90%) were for social rent.

The City Council can play a key role in supporting and promoting CLH as a delivery mechanism to deliver its Housing Strategy and localisation priorities, increasing housing supply and to meet other key council aims such as community cohesion, tackling social isolation and loneliness and promoting local business and community enterprise. With resources at a premium and a strong forward build programme in place for available land in the city, making new sites available and providing resources to enable others to build is a key challenge. However, this does not prevent the City Council playing a key role in promoting and enabling CLH to deliver positive outcomes for its citizens.

2. Purpose of a CLH Policy

2.1 The City Council has committed through its Housing Strategy approved by the City Council's cabinet in July 2017 to promote, enable and support CLH. This policy formalises Birmingham City Council's policy position in regard to CLH in the context of its priorities around meeting supply targets and providing opportunities for communities to have greater influence and involvement in how their areas are run.

2.2 Specifically a CLH Policy should:

- Support communities to realise their potential and take forward their own small-scale housing schemes
- Recognise the self-build and custom build community and the existing, July 2017 Cabinet approved, approach to providing opportunities to support them as set out in 6.8 of this policy.
- Raise awareness of CLH and encourage its delivery through putting a range of support mechanisms in place to enable schemes to progress from the earliest opportunity.
- Promote models under which communities take on ownership, stewardship or management of existing homes and so supporting the Councils Localisation agenda
- Define critical steps and decision making processes in regard to CLH proposals and the City Council's role.

3. Background

3.1 In recent years, there has been a new wave of community based organisations seeking to tackle the housing challenges faced by local people to deliver Community Led regeneration. The models are varied and can be found across the full range of housing provision, including affordable rent, private rented sector and home ownership. Examples include:

- Community Land Trusts
- Community Self and Custom Build
- Co-operative housing
- Co-Housing
- Self-help housing
- Empty homes
- Co-ownership
- Right to Manage – existing stock

3.2 The outcomes achieved range from bringing empty homes back into use, supporting urban renewal, improving standards in the private rented sector, and providing rural housing and homes for vulnerable and excluded groups. Community-led housing will not deliver the volumes of house building required in the City, but it can provide an opportunity to be innovative in identifying new ways to design and deliver new housing in the City, and gaining support for new development in localities, whilst supporting some of the most excluded

communities and neighbourhood regeneration. There is also the potential for greater density and innovation regarding Environmental sustainability.

3.3 There is an active national programme developing new models of community-based housing across England and identifying funding models. This provides an ideal opportunity to explore the specific options for Birmingham.

3.4 A recent report by the Co-operative Council's Innovation Network gives some good case studies and how local authorities can play a key role which this policy seeks to cover. This includes:

- Establishing a clear policy position and commitment to support CLH
- Criteria for identification of suitable sites
- Identification of champions in the authority
- Commitment of resources
- Working with CLH groups
- Setting targets within its Housing Strategy.

3.5 There is a plethora of different models for community led housing. The following key principles in this policy however should be integral to schemes.

- The community should be integrally involved throughout the process in key decisions like what is provided, where, and for whom. The community does not have to initiate the proposals or build homes themselves.
- Community groups should generally take a long-term formal role in the ownership, stewardship or management of the homes.
- The benefits of the scheme to the community (whether that's a local area or specified group) should be clearly defined and legally protected in perpetuity.

3.6 Community led housing can/will encompass the following:

- Development of new homes
- The community taking on ownership, stewardship or management of existing homes
- Conversion of existing properties to support community led housing opportunities

4. Policy context

4.1 The Council recognises that the CLH Policy will primarily work to meet the relevant objectives of the Housing Birmingham Partnership and the City Council's Housing Strategy through its support for the development of an enabler hub for the city, Birmingham Community Homes (BCH).

- 4.2 With the support of the Council, BCH has been successful in securing funding from the Community Housing Fund and Power to Change to establish an enabler hub to support the transfer of knowledge, the growth of the CLH sector in Birmingham and the urban West Midlands and influence local stakeholders. BCH has already produced several useful reports that have assisted the Council's strategy development including Hope for Housing Conference report with 25 policy recommendations covering strategic support, planning and land, finance, social housing, empty homes and private renting (November 2018) and technical report on finance, land, community empowerment and evaluation (October 2019).
- 4.3 The CLH Policy will support the Housing Birmingham Partnership Board and the CLH sector to:
- Maximise delivery of good quality housing of the right type and tenure by supporting the activities of housing providers and support agencies to meet existing and future housing need in a sustainable way.
 - Build new homes.
 - Investigate alternative models of affordable housing delivery and finance to meet the housing and support needs of specific groups and sectors of the housing market.
 - Promote models under which communities take on ownership, stewardship or management of existing homes and support delivery of localisation priorities.
- 4.4 The CLH Policy will be formally reviewed by Housing Birmingham in consultation with Birmingham Community Homes Enabler Hub, with proposed amendments to be approved through the Cabinet Member with portfolio responsibility.
- 4.5 There are many situations where there is a shared or complementary role with other agencies. Relevant officers within the City Council have been working collaboratively to understand the aspirations of the sector in Birmingham.
- 4.6 CLH is currently seen as a viable method of increasing the supply of housing and at the same time, making a real impact on the lives of the communities who are delivering it. As government priorities change in the future, CLH may not receive the same level of support, but the Council may endeavour to continue supporting any groups or individuals (self build or custom-build) who have taken an interest in delivering their own housing.

5. Delivering key Council priorities

- 5.1 CLH if successful can support the Council in delivering against a number of its priorities set out in the Council Plan 2018-2022 namely:

Outcome 4: Birmingham a great City to live in:

- We will have the appropriate housing to meet the needs of our citizens

- We will foster local influence and involvement to ensure that local people have a voice in how their area is run.

Enabling communities to have a greater role in delivering and/or degrees of control over Housing in their area directly supports the localisation priorities approved by Cabinet. It supports the principles set out in the Councils 'Working together in Birmingham's neighbourhoods' approach in particular supporting a framework of relationships by exploring the role neighbourhoods can have in service delivery and influencing the future of their area and delivering community cohesion and tackle loneliness and isolation.

CLH can deliver increased stability in neighbourhoods by creating a mechanism for social stewardship in for example areas where there are excessively high concentrations of exempt accommodation and poor Private rented accommodation.

6. Identifying and implementing solutions to promote Community Led Housing

The Council's aim is to encourage learning about CLH and enhance the role that communities can have in influencing increase provision of small-scale affordable housing in the city by:

6.1 Strategic Support

- Appoint a political champion for Community-led housing within the council and develop a policy environment to support it across services such as planning, housing and asset management to help communities to make it happen.
- Provide Officer input on the Birmingham Community Homes (BCH) Enabler Hub partnership and other relevant organisations.
- Work with BCH to identify and address strategic barriers to meeting the BCH target for 5% of new homes in the city to be community-led by 2031.
- Support BCH by enabling through three main routes (developer partnerships, existing community groups and new groups).
- Support Birmingham Community Homes to work with developers, Registered Providers and new residents before and after occupancy to secure genuine community benefit and delivery of Council priorities
- Support Councillors and employees of Birmingham City Council to become more knowledgeable about the potential of community led housing in helping the council to meet its housing and neighbourhood objectives.

6.2 Planning

- The principle of CLH is supported as part of the provision of a wide choice of housing to meet the needs of the population. The Birmingham Development Plan (BDP), adopted in 2017, forms part of the statutory planning framework for the city and sets out the overall development

strategy. The provision of a sufficient quality and quantity of housing to meet the city's growing population is a central part of the BDP.

- Current Planning policy recognises CLH can contribute positively to the creation of sustainable neighbourhoods; deliver a range of dwellings to meet local needs; help provide affordable housing and can help to make best use of existing housing stock.
- CLH will be subject to the same planning process and requirements as other forms of development. Pre-application discussions with the local planning authority are recommended for CLH proposals, prior to making the formal application for planning permission.
- Neighbourhood planning provides an opportunity for communities to include community-led housing and other kinds of community led development as part of the Neighbourhood Plan for their area.
- A Neighbourhood Plan can help communities make decisions on what type of housing they need, where it should be built and who should occupy it; It can include policies around affordability, local lettings and retaining homes as community assets 'in perpetuity'. It can identify specific sites for housing development and specify a proportion of them to be affordable and available to local people 'in perpetuity', for example through resale price covenants.

6.3 Land

- 6.3.1 The City Council cannot be a provider of discounted land in regard to its role in supporting CLH. Land is at a premium in Birmingham and the need to maximise its potential to support a continuing programme of social rented provision is of utmost priority. Currently this is delivered via Birmingham Municipal Housing Trust (BMHT) which could provide a vehicle for delivery of CLH schemes.
- 6.3.2 There are instances where the Council can identify land as surplus and suitable for disposal to support CLH and that can be accessed/earmarked by organisations for CLH schemes, this land is required to be assessed as:
- a) Not deliverable as a City Council development/scheme i.e. BMHT/in reach;
and
 - b) Does not provide use to deliver on any other key Council use or priority.
- 6.3.3 Birmingham Property Services will continue to market surplus land for sale on behalf of the City Council where interested CLH organisations can engage in the disposal process. Subject to demand for sites and supply of available sites, consideration will be given to earmarking specific suitable surplus sites specifically for CLH subject to requirements set out in Section 7.
- 6.3.4 The Strategic Housing Land Availability Assessment (SHLAA) can be viewed on <https://sbham.maps.arcgis.com/apps/webappviewer/index.html?id=03c2100381f1414fad61bd99b9eb0b69> This provides a list of all land BCC planning have identified as suitable for housing development.

6.4 New build

- 6.4.1 The Council delivers more affordable homes in the city than any other agency through the Birmingham Municipal Housing Trust, to date over 1700 affordable homes have been built through BMHT, and cross subsidised by the development of homes for market sale. In order to support the current rate of delivery achieved through the BMHT, the Council needs to channel most of its surplus land towards its own house building programme. This however can provide opportunities to involve local communities in its delivery and offer CLH potential.
- 6.4.2 The Council's building programme however does provide an opportunity to promote community led housing within the city by introducing new models of management and stewardship of those new homes through the development phase. This could include direct community management as part of any devolution deal, or a stewardship role. In addition, the community could be involved in the design of the new homes. Also, BMHT will work with Registered Providers and Community organisations to explore CLH opportunities within new schemes especially where new schemes are being developed in areas where there is a strong community input and/or a suitable Registered Provider.
- 6.4.3 The Council will consider proposals from groups that also include a range of financial models/solutions to aid delivery, not just normal purchase. This will be considered in line with existing decision making processes for disposals and considerations contained within this policy but also consideration where it strongly delivers on localisation priorities and community input into an area. These considerations will also need to take account the current capital and financial priorities of the Council at the time and not expose the Council to unmanageable financial risk.
- 6.4.4 Alongside BCH and interested organisations the Council will seek to explore potential delivery options with Registered Providers via the Housing Birmingham Partnership which can include looking at mechanisms for financing schemes where there is Registered provider input.

6.5 Empty Homes

- 6.5.1 With land being scarce the City Council will also promote, through its empty property strategy, the potential opportunities for empty homes brought back into use to support CLH schemes. The decision making process will follow that as detailed for land disposal.
- 6.5.2 The Council recognizes that for small organisations aspiring to get into community led housing, vacant property has often been the first step. However, there is a need for a similar capital funding stream for small CLH groups similar to the Empty Homes Community Grants Programme in 2011-15. whereby 5 CLH groups brought around 80 empties into use to meet housing needs in Birmingham.

6.5.3 It is therefore necessary to examine financial models that might enable CLH groups to acquire or lease and repair empty homes to provide additional affordable renting under social stewardship. BCH responded extensively to the BCC Empty Homes Strategy 2019-24 consultation in 2019 and is currently meeting the Empty Homes team to discuss ways to expand on existing empties into use targets and lever in further funding through CLH involvement.

6.5.4 There is also scope to engage with CLH groups to provide social stewardship models to arrest neighbourhood decline in areas with large concentrations of private renting, particularly in the exempt accommodation sector. An Ethical Disposal policy is being developed nationally and regionally by National Housing federation and provides the potential along with empty homes enforcement action to provide a pipeline of properties that CLH groups could refurbish and rent out to stabilise those neighbourhoods. Such disposal policy will be considered and developed locally via the Housing Birmingham Partnership and developing proposals to work with BCC, BCH and Registered Providers to ameliorate these problems by working with local communities.

6.6 Enabling Social Housing Provision

6.6.1 The key housing need in Birmingham is for social and affordable rented homes. The Council's Policy on CLH will be aimed primarily at supporting models and proposals that focus on social and affordable rented homes. The exception to this approach will be in the case of self-build where the Council is under a legal duty to promote self-build, and accordingly will make a small number of sites available for self-builders, who may be prospective owner occupiers or tenants. Also, BCH will work with cohesion groups who wish to invest their own resources in collective home ownership models.

6.7 Existing Stock

6.7.1 Community Led Housing is not just about new build and is never going to provide a significant quantum of new homes in the city. It is also about new models by which the community can have more of a stake in existing homes, and this can be achieved by the community having varying degrees of influence over how their homes are managed for example the successful Tenant Management Organisation (TMOs) in the city.

6.7.2 This principle applies equally to Housing Associations and to the Council, both of which have a history of enabling community led housing stewardship of their existing assets. CLH needs to be promoted through Housing Birmingham and Birmingham Social Housing partnership to ensure it is not just the Council being the enabler for CLH schemes.

6.8 Custom and Self Build

6.8.1 Self-build and custom build (SCB) including group custom build provide routes into home ownership for individuals and groups who want to play a role in developing their own homes. Activity in this area has increased in recent years and self-build schemes currently deliver around 10,000 homes per year in the

UK. The Government has taken steps to raise the profile of self-build through a series of measures including easing constraints in the planning systems, cutting taxes for self-build developments, providing a number of funds to assist individuals and communities to self-build, and by releasing public land for self-build projects.

- 6.8.2 To enable the Council to meet its commitment to support self-build, Cabinet approved, on 25th July 2017, a report entitled “Incentivising Self-build in the City”. This report approved proposals for the Council to sell land suitable for self-build and custom build developments to applicants who are registered on the Council’s self-build register.
- 6.8.3 The Council will also promote self and custom-build through planning policy. The Council will also dispose of land for self-build subject to the criteria set out in the Cabinet report for custom and self-build The Birmingham Design Guide currently being developed will include design related guidance for SCB Housing.
- 6.8.4 Further detail in regard to the City Councils Policy on Custom and self-build can be found within the Cabinet report of 25th July 2017. The Council will strive to ensure modern and thermal efficient methods of design and provision of local employment for such schemes where possible.
- 6.8.5 The Council will also support and facilitate where it can, any regional opportunities through the West midlands Combined Authority for increased CLH provision.

7. Legislative and financial considerations

Land and property – Disposals to support CLH

- 7.1 There are key statutory requirements that need to be considered where the Council dispose of Land, namely – S123 Local Government Act 1972 and General Consents (**General Fund Land**); and Section 32 Housing Act 1985 and General Housing Consents 2013, General Consents S25 Local Government Act 1988 (**Housing Revenue Account (HRA) Land**) (**the Acts and Consents**).
- 7.2 In all cases disposals will need to follow the principles and legislation in regard to the Acts and the Consents.
- 7.3 Any disposals are to follow the appropriate City Council’s constitutional and financial regulations and executive decision making processes.
- 7.4 S123 Local Government Act 1972 allows the disposal of General Fund Land for best consideration. S32 Housing Act 1985 prohibits disposal of HRA land without the consent of the Secretary of State. The consent of the Secretary of State is given under the Consents or where the Consents do not apply the specific consent of the Secretary of State must be obtained.

- 7.5 Section 123 of the Local Government Act 1972 General Consent allows for disposal of General Fund land at less than best consideration unless the undervalue exceeds £2m and where the undervalue will help deliver the Council's economic, social or wellbeing of its area. An undervalue exceeding £2m requires the specific consent of the Secretary of State. Notwithstanding the 1972 Act General Consent, any disposal must not involve the council giving unlawful 'State Aid' on a disposal of land at less than best consideration. S123 does not override State Aid so State Aid clearance will be required for any disposal of land at less than best consideration. The undervalue must represent financial savings to the Council equivalent to the undervalue as certified by an independent expert; or that it falls within any of the State Aid exemptions.
- 7.6 The balance will also need to be struck between the financial circumstances of the Council at the time as to whether any use of general consent is sought against the need to capture financial return or benefit to other Council priorities. Any non-financial equivalent benefits will need to fully quantify how it delivers value and benefit equivalent to true value in financial terms. In all cases this will follow the Council's decision making process including obtaining approval from Head of City Finance/Chief Finance Officer.
- 7.7 The Council will require organisations with development proposals to develop and provide a detailed financial/business case and organisations should consider this requirement when applying for capacity building grant funding from Homes England. Any proposals received by the Council where there is a council interest or implication, is required to have a robust and verified financial model and business case clearly illustrating the financial and non-financial impacts and benefits of the proposal including where there is a need to 'value' community benefit in financial terms.
- 7.8 There is an aspiration from the sector that the Council seeks to facilitate alternative solutions to help bridge the financial gap organisations face in identifying capital funding. This includes exploring prudential borrowing solutions and use of Section 106 and to be a conduit for grant funding. Any decisions to undertake such activity on behalf of organisations by the Council will be on the basis of no exposure to delivery risks or claw back risks.

8. Allocations and Lettings

- 8.1 There is a need to consider the mechanisms by which allocations to homes built with any form of public subsidy are made – both in terms of first letting and re-lets, this can include CLH schemes. The use of Local Letting Plans (LLP) for first lets should be considered in line with the current approved Council Policy on LLPs especially where there is Council interest to achieve maximum nominations to support Council priorities in relation to relieving homelessness. The approach to managing allocations is to be further developed in consultation with the Council and BCH. Local Lettings Plans will also be used where appropriate for new BMHT schemes to maximise the potential for CLH development.

9. Homes England Community Housing Fund

- 9.1 The Community Housing Fund which is subject to ongoing review by the government aims to support an increase in housing supply in England by increasing the number of additional homes delivered by the community-led housing sector; to provide housing that is affordable at local income levels and remains so in perpetuity; and to deliver a lasting legacy for the community-led housing sector in the form of an effective and financially self-sustaining body of expertise within the house building industry in England.
- 9.2 Funding outside London is being allocated by Homes England across 2 phases. A separate programme for London will be delivered by the Greater London Authority. This is in addition to £60 million funding that has already been allocated directly by government to 148 councils in December 2016.
- 9.3 Under Phase One of the Community Housing Fund , Homes England is making available grants to eligible organisations to support:
- Applications for revenue funding for capacity building and predevelopment costs, including revenue grants to local authorities to support community groups
 - Capital bids for associated infrastructure costs which will support community housing development
- 9.4 Under Phase Two of the HE Fund Homes England is making available grants to eligible organisations to help cover the capital costs of acquiring land and building community-led housing schemes. This policy will be reviewed annually to take account of any emerging legislation and opportunities in regard to community led Housing.
- 9.5 Any Community Housing Fund (CHF) bids that are submitted will be assessed by Homes England. As part of that assessment process, they will seek comments from the Council as the Local Authority to confirm if it is aware of the proposal and/or whether the community group concerned, has made contact with the Council in some way, to identify its plans.

Comments from the Local Authority in regard to applications for CHF Fund is a mechanism for Homes England to check that the proposal is being developed by a genuine “community” (geographic or interest) and is not a person developing a scheme for their own purposes, for which there is no evident support. It is also a means by which the Authority can flag any concerns or issues, should the proposal conflict with any wider development plans or planned interventions for the area concerned. The Local Authority will consider such requests in consultation with the sector.

- 9.6 It is essential that in considering support for CHF Fund grant applications to Homes England the Council takes account of the organisations ability to deliver and sustain any proposal and seek declarations and evidence from them/the bid as part of its due diligence, this may include:
- Key outcomes of the proposed scheme.
 - The creation of community led housing schemes;

- The provision of greater empowerment for local communities and neighbourhoods; and
- Increase in affordable/specialist housing to meet local needs.
- Strong governance arrangements by operating through open and accountable, processes.
- That the skills and capacity exist within the organisation or are available to the organisation or clear plans as to how this will be achieved to undertake the project. There are strong benefits to organisations working alongside Registered Providers to develop proposals and also deliver.

9.7 Capital and capital infrastructure grant; as part of CHF Fund there is the ability for capital grant to deliver infrastructure costs. The rules within CHF state that this can only be applied for by Local Authorities. This would require the Council acting as accountable body and taking on the risks associated with grant receipt and application which include delivery and financial risk. The Council will only consider applications that require it to be the Grant recipient for capital costs where the following is demonstrated in the application:

- That there is a realistic financial plan (including cash flows) for the development of the housing and sustainability of the scheme and the scheme offers good value for money to the CHF, the organisation and the Council;
- Clear detailed and comprehensive financial and organisation plans for the future management of the housing scheme that demonstrates long term sustainability;
- Community support and benefit for the proposals;
- How the organisation will comply with any relevant legislation and statutory requirements

In addition, community organisations will need to:

- Be a legal entity, or be part of a legally constituted consortia agreement;
- Be appropriately constituted
- Have clearly stated community benefit objectives; and
- Be non-profit making including a commitment to reinvest any surpluses to further its social aims/community benefits.

10. Decision making and governance for proposals received by the City Council

10.1 In considering proposals that include a Council interest or call on resources or act as funder under 9.8 above the Council will follow its current decision making process governance and financial arrangements. An officer CLH Board will be established to consider proposals in line with this policy and make subsequent recommendations to the appropriate decision maker i.e. Cabinet. The CLH Board will ensure a consistency of approach in the management of property and will coordinate decisions being presented to Cabinet or made through use of the scheme of delegations

10.2 Relevant Cabinet Members are to be consulted at the earliest opportunity where proposals impact on portfolios.

10.3 This Policy is to be reviewed annually

Related Policy and other background documents

Birmingham's Housing Strategy

Incentivising Self Build in the City 25th July 2017

CCIN CLH – A key role for Local Authorities

Property Strategy