

[Housing Nominations Agreement]

For Cabinet on 21 September 2023

Summary

Lead Member: Councillor Hugo Pound – Cabinet Member for Housing and Planning

Lead Director: Paul Taylor- Director of Change and Communities

Head of Service: Gary Stevenson – Head of Housing, Health and Environment

Report Author: Tobi Phillips – Affordable Housing and Enabling Officer

Classification: Public document (non-exempt)

Wards Affected: All

| Approval Timetable | Date |
|-----------------------------------------------------|---------------------------|
| Management Board | 21/08/2023 |
| Portfolio Holder | 02/02/2022 and 17/08/2023 |
| Housing Advisory Panel | 13/12/2022 |
| Communities and Economic Development Advisory Board | 6 September 2023 |
| Cabinet | 21 September 2023 |

Recommendations

Officer / Committee recommendations as supported by the Portfolio Holder:

1. That Cabinet approve the adoption of the Nominations Agreement at Appendix A subject to any necessary drafting changes considered necessary by the Head of Mid-Kent Legal Services.
2. That Cabinet give delegated authority to the Head of Mid-Kent Legal Services to enter into Nominations Agreements with Register Housing Providers after receiving instructions to do so from Affordable Housing and Enabling Officer.

1. Introduction and Background

- 1.1. The Nomination Agreement details the nomination arrangements for the allocation of social and affordable rented housing ensuring that the Council's statutory duties are met by the Registered Providers.
- 1.2. RPs are regulated by the Regulator of Social Housing which has issued guidance to RPs with respect to their management of housing accommodation. The Regulator of Social Housing Regulatory Framework for Social Housing in England 2015 (most recently updated in April 2020) requires RPs to work with local authorities to enable them to fulfil their statutory duties to, among others, homeless people and people who have priority for an allocation of housing.

2. Aims & Objectives

- 2.1 The Nomination Agreement will serve as the standard agreement detailing how RPs will work with the Council to house nominees from the Council's housing register. The standard document will operate alongside the individualised section 106 agreement for each RP to reflect the percentage of properties negotiated and minor variations in the process.
- 2.2 Currently, planning agreements reference nomination details stating that the Council have the exclusive right to nominate suitable households in housing need to affordable dwellings on new site developments in accordance with the Council's published allocation scheme, but the planning agreement or the allocation scheme does not specify how nominations are communicated by the Council to the RP and the circumstances which trigger this process
- 2.3 The planning agreement also refers to Homes England's Help to Buy agent web service which qualified potential applicants for intermediate and low-cost home ownership schemes such as shared ownership. This service officially came to an end in April 2023 and the responsibility of ensuring applicants meet eligibility criteria now sits with the RP. The Nominations Agreement outlines the eligibility criteria that the Council expects all RPs to adhere to when delivering intermediate and low-Cost home ownership forms of affordable housing
- 2.4 The agreement outlines that RPs agree to let a proportion of their vacant properties to applicants nominated from the Council's housing register. The agreed percentage will also ensure that RPs are providing the Council with a true reflection of stock that becomes available and enables greater transparency between the Council and RP partners
- 2.5 The Nominations Agreement will also provide greater transparency regarding nomination procedures setting clear criteria and practices for RPs including

defined parameters for application referral processes and set criteria for refusal reasons and appeals.

- 2.6 RPs will be required to provide 75% of true voids to the Council for nomination of applicants from the Council's housing register. In addition, they are expected to offer 100% nomination rights of any new development affordable housing at an affordable or social rent basis
- 2.7 A True-void property is a dwelling that has become available after the resident has vacated the property due to certain circumstances and no reciprocal unit is required. These circumstances are
- When the property is newly built or acquired
 - Previous resident has died with no succession rights
 - Vacancy due to Purchased Property or rented private
 - Vacancy due to eviction or abandoned
 - Vacancy due to resident moving to another property and no reciprocal needed
 - Vacancy due to permanent decant
- 2.8 The Nominations Agreement establishes a process for monitoring void stock and reporting on nomination activity, ensuring that RPs are meeting the obligations set out in the agreement by completing a quarterly return.

3. Options Considered

- 3.1. **Option 1** For the Cabinet to approve the contents of the Nominations Agreement to establish consistent nomination practices through the borough considering changes made to the Council's housing allocation scheme policy and to include changes in operational delivery that have occurred.
- 3.2. **Option 2** For the Council to continue to operate without a Nominations Agreement and for nomination arrangements to be included within individual planning agreements without key nomination specifications. This option is not recommended as the Council will continue to operate nominations without any framework for governing the nominations arrangements.

4. Preferred Option and Reason

- 4.1. Option 1 is the preferred option as the Nominations Agreement provides the procedures to be used to make existing and arising void properties available for nominations to the Council.

5. Consultation on Options

- 5.1. The Nominations Agreement has been drafted with regard to the guidance and input from Kent Housing Group and RPs. Further Input from the Mid Kent Legal services team has been made to ensure the agreement aligns with planning agreements.

Recommendation from Cabinet Advisory Board

- 5.2 The Communities and Economic Development Cabinet Advisory Panel were consulted on 6 September 2023 and agreed the following:

Insert text from Cabinet Advisory Board minute, or request text from Democratic Services Officer.

6. Implementation

- 6.1. The Council will need to sign a separate agreement with each of the RPs who have properties within the borough. This agreement will be reviewed annually with each RP to ensure it is working effectively and meeting its aims and objectives.
- 6.2. Specific nomination arrangements outlined in planning agreements will be utilised in conjunction with the Nominations Agreement and will be discussed at pre-planning application stages

7 Appendices and Background Documents

Appendices:

- Appendix A: Nominations Agreement 2022
- Appendix B: Stock Return Form

8 Cross Cutting Issues

A. Legal (including the Human Rights Act)

The Council can introduce the Nominations Agreement under its existing powers but the current draft needs to be reviewed by the Contracts and Commissioning Legal Team as it has not been drafted in line with the Council's Constitutional requirements.

Lucinda MacKenzie-Ingle, Contracts and Commissioning Team Leader 26 July 2023

B. Finance and Other Resources

The Nominations Agreement has no financial implications for the Council.

Jane Fineman Head of Finance and Procurement 29/08/2023

C. Staffing

The Nominations Agreement has no new staffing implications for the Council.

Tobi Phillips Affordable Housing and Enabling Officer 03/07/2023

D. Risk Management

The Nominations Agreement is not property or development specific nomination requirements which may relate to specific sites will be detailed and outlined in planning agreements, annual reviews with RPSH will be undertaken to ensure the Nominations Agreement's continued effectiveness.

Tobi Phillips Affordable Housing and Enabling Officer 03/07/2023

E. Environment (inc. Biodiversity) and Sustainability

The Nominations Agreement ensures that there is a procedure for any potential void properties available to the housing register within the borough. Works undertaken to bring the void properties up to the required housing standards will be carried out in line with sustainability requirements and ensuring that the properties fall within the minimum energy efficiency standards.

Tobi Phillips Affordable Housing and Enabling Officer 03/07/2023

F. Community Safety

The Nominations Agreement helps to promote consistent and transparent nomination practices for applicants on the Council's housing register which can promote affordable housing, helping to alleviate homelessness within the borough

Tobi Phillips Affordable Housing and Enabling Officer 03/07/2023

G. Equalities

An equalities analysis has been undertaken, which demonstrates the positive implications of the Nominations Agreement in increasing the quantity, range and type of affordable housing that is made available to those households in housing need through nominations of applicants from the housing register to RPs.

Tobi Phillips Affordable Housing and Enabling Officer 03/07/2023

H. Data Protection

The Nominations Agreement obliges both parties to comply with all applicable requirements of the Data Protection Legislation. This agreement is in addition to and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this agreement, Applicable Laws means (for so long as and to the extent that they apply to the Provider) and/or Domestic UK Law; and Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.

Tobi Phillips Affordable Housing and Enabling Officer 03/07/2023

I. Health and Safety

The Nominations Agreement has no health and safety implications for the Council.

Tobi Phillips Affordable Housing and Enabling Officer 03/07/2023

J. Health and Wellbeing

The Nominations Agreement helps to formalise the nominations arrangements between those in housing need and the RPs that offer affordable housing within the borough. The agreement has been developed in line with the allocations scheme policy and offers a more robust commitment to the monitoring of the arrangement to ensure the Council is nominated percentages detailed in the agreement.