

<b>Cabinet</b>	 <b>TOWER HAMLETS</b>
3 November 2015	
<b>Report of:</b> Director Law Probity and Governance	<b>Classification:</b> Unrestricted
The quality of S106 funded social housing – Scrutiny Challenge Session report and Action Plan	

<b>Lead Member</b>	<b>Councillor Rachel Blake, Cabinet Member for Strategic Development</b>
<b>Originating Officer(s)</b>	Louise Fleming, Corporate Strategy and Equality
<b>Wards affected</b>	All Wards
<b>Key Decision?</b>	Yes
<b>Community Plan Theme</b>	<b>A Great Place to Live</b>

### **Executive Summary**

This report submits to the Cabinet the report entitled “The Quality of S106 funded Social Housing Scrutiny Challenge Session Report” and the draft action plan that has been prepared in response to the 4 recommendations contained in that Report and which Report was agreed by the Overview and Scrutiny Committee on 7<sup>th</sup> April 2015.

### **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Note the Scrutiny Challenge Session report titled “The Quality of s106 funded Social Housing Scrutiny Challenge Session Report” as agreed by the Overview and Scrutiny Committee on 7<sup>th</sup> April 2015 (see Appendix One); and
2. Agree the draft action plan that has been prepared in response to the 4 recommendations contained in that Report (see Appendix Two).

## **1. REASONS FOR THE DECISIONS**

- 1.1 This report submits the report of the Overview and Scrutiny Committee Challenge Session on the Quality of S106 funded Social Housing for consideration of the Mayor and Cabinet.
- 1.2 Overview and Scrutiny identified a concern amongst some Councillors and residents that the quality of the social housing being built in the Borough through these agreements was not robust enough, with materials being used which were not suitable for high density housing with a much greater intensity of use than private dwellings.
- 1.3 The focus of the challenge session was therefore to see if there was an issue with the design and build quality of some of the affordable housing in the Borough provided through S106 planning obligations; and, if so, what changes to planning policy, practice or procedures could be made to address these concerns, whilst still ensuring the continued provision of affordable housing in the Borough. The session was chaired by Councillor David Chesterton, the then Scrutiny Lead for Development and Renewal.

## **2. ALTERNATIVE OPTIONS**

- 2.1 To take no action. This is not recommended as the proposed recommendations are strategic, measurable and attainable, and agreed by senior officers in the Service. The action plan is outlined in Appendix Two.
- 2.2 To agree some, but not all recommendations. As outlined above all of the recommendations are achievable and can be contained within existing budgets.

## **3. DETAILS OF REPORT**

- 3.1 The objectives of the challenge session were to answer the following questions:
  - Is there an issue with the design and build quality of some affordable housing in the Borough?
  - Is it possible to improve quality?
  - Can the Development Committee Members have any influence over driving up quality and improving what the Council gets for its S106 contribution?
- 3.2 The report titled “The Quality of s106 funded Social Housing Scrutiny Challenge Session Report” and which is attached at Appendix One contained 4 recommendations as follows:

### **RECOMMENDATION 1:**

The Council investigate the feasibility of adopting a minimum design standard, developed with the Tower Hamlets Housing Forum, governing materials

specification, enforced through the planning process, as part of its refresh of the Local Plan.

**RECOMMENDATION 2:**

The Council reinvigorate the LBTH Developers Forum and encourage developers to identify and work with a Registered Provider from the Council's preferred list earlier on in the planning application process.

**RECOMMENDATION 3:**

The Council work in partnership with Registered Providers through the Tower Hamlets Housing Forum to develop specific expertise in contracting for and managing high density developments, and to encourage reinvestment of money into existing housing stock.

**RECOMMENDATION 4:**

The Council consider options and resources available to monitor and enforce compliance with S106 legal agreements.

- 3.3 A draft action plan has been prepared in response to the recommendations and this is attached as **Appendix Two**.

**4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 This report requests that the Cabinet notes the scrutiny report on the quality of Section 106 funded social housing that was agreed by the Overview and Scrutiny Committee on 7 April 2015, and seeks approval for a draft action plan to be adopted.
- 4.2 The report recommendations are intended to address the issue of improving the quality of social housing being built within the borough through Section 106 agreements. These recommendations are supported by the proposed activities that are outlined in the action plan that is attached in Appendix 2. There are no direct financial implications arising from the report, with the resources necessary to undertake the proposed activities being absorbed within existing staffing structures and budgets.

**5. LEGAL COMMENTS**

- 5.1 The Council is required by section 9F of the Local Government Act 2000 to have an Overview and Scrutiny Committee and to have executive arrangements which ensure the committee has specified powers. Consistent with that obligation Article 6 of the Council's Constitution provides that the Overview and Scrutiny Committee may consider any matter affecting the area or its inhabitants and may make reports and recommendations to the Full Council or the Executive, as appropriate, in connection with the discharge of any functions.
- 5.2 This report provides details of an Overview and Scrutiny challenge session to see if there was an issue with the design and build quality of some of the affordable housing in the borough provided through S106 planning

obligations; and, if so, what changes to planning policy, practice or procedures could be made to address these concerns, whilst still ensuring the continued provision of affordable housing in the Borough.

- 5.3 A report titled “The Quality of s106 funded Social Housing Scrutiny Challenge Session Report” was prepared following the challenge session and agreed by the Overview and Scrutiny Committee and which made a number of recommendations which aim to investigate what the Council can do to through the planning process to improve the design and build quality of affordable housing in the borough. This work would focus on what can be achieved through the refresh of the Local Plan or through s106 agreements. The report also recommended partnership working with the LBTH Developer’s Forum and Registered Providers to support the ultimate objective of driving up the quality of affordable housing.
- 5.4 With regard to the action for Recommendation 1, any amendments to the Council’s Local Plan that may ultimately be required would need to go through the statutory procedure set out in the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012. This includes inter alia extensive consultation and an independent examination. Any review should commence with the preparation of an evidence base which looks at the extent and cause of the current problems. The Council will need to carefully consider the extent to which the internal build quality can be controlled through planning policy and the ability to enforce this through the planning process.
- 5.5 Further with regard to recommendation 4 any planning obligation aimed at incorporating minimum standards would need to meet the policy tests for planning obligations set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (and also included in the National Planning Policy Framework). This provides that planning obligations can only constitute a reason for granting planning permission where they are necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and kind to the development. The Council would also need to ensure that the obligations are enforceable.
- 5.6 Before deciding to proceed with any new policy or direction, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010 (e.g. discrimination), the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don’t (the public sector equality duty). There is information in the report relevant to these considerations.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 The scrutiny report’s recommendations support the Council’s One Tower Hamlets aims, including to reduce inequality. The Council has strategic objectives to provide good quality affordable housing and to improve the quality of housing. The scrutiny report identifies an inequality relating to

housing tenure. The report sets out concerns that some affordable housing, built by private developers under S106 agreements, may not be fit for purpose. The action plan sets out a number of actions to help address this.

## **7. BEST VALUE (BV) IMPLICATIONS**

The Scrutiny Challenge session report supports the Council's Best Value duty by setting out a number of recommendations which aim to support improvement, informed by consideration of economy, efficiency and effectiveness. The report recommends that partnership working take place and that the Council consider options and resources available to monitor and enforce compliance with S106 legal agreements, the delivery of which secure community benefits.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 There are no direct environmental implications arising from the report or recommendations.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 There are no direct risk management implications arising from the report or recommendations.

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 There are no direct implications of crime and disorder as a result of the recommendations of this review.

## **11. SAFEGUARDING IMPLICATIONS**

- 11.1 There are no direct implications for safeguarding as a result of the recommendations of the review.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None

### **Appendices**

- Appendix 1 - The Quality of s106 funded Social Housing Scrutiny Challenge Session Report
- Appendix 2 – Action Plan

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- None

**Officer contact details for documents:**  
N/A