

**Executive**

**7 December 2017**

**Report of the Corporate Director of Health, Housing and Adult Social Care & the Corporate Director of Economy & Place**

**Portfolio of the Executive Member for Finance and Performance & Executive Member for Housing and Safer Neighbourhoods**

**Housing Delivery Programme – establishing a delivery model and the scope of the programme**

**Summary**

1. This report outlines the need for the council to take a strategic lead in addressing the current housing shortage which is being faced nationally and which has specific local factors which impact negatively upon our communities and the growth potential of our economy. This report further refines the proposal of establishing a housing development company, following on from the ‘in principle’ approval from Executive in March 2017. It will explain the key outcomes from the work which has been undertaken to date and seeks approval for the core vision and scope of the Housing Delivery Programme as well as approval to resource the next steps.
2. The core vision of the Housing Delivery Programme is to accelerate housing delivery in the city and support service provision through the delivery of a long term financial surplus. This reports looks at the initial scope of the Housing Delivery Programme, examining which sites could be utilised to provide new housing. Delivery through a housing development company is proposed based on external legal advice and the experience of other local authorities with housing delivery ambitions. The report sets out a site development business case approach to bring sites forward for consideration. The advantages of a partnership approach are presented as a way of accelerating housing delivery whilst minimising risks, investment, finance, and resource asks of the council.

## Recommendations

3. The Executive are asked to:

- a) Approve the core vision and scope of the programme with each site to be considered for development through a detailed site development business case
- b) Approve the establishment of a company wholly owned by the council for the purpose of residential development noting the timescales associated with this process
- c) Add the development company to the scope and responsibilities of the existing Shareholder Committee
- d) Approve a financial resource allocation (as set out in paragraphs 28 and 29) for external design, cost consultant, legal and financial advice and to enable the appointment of a suitably qualified and experienced interim Managing Director for up to 12 months to assist in the formation of a development company and in the production of a five year business plan.
- e) To delegate the recruitment decision and remuneration package to the Leader and Deputy Leader of the Council in consultation with the Corporate Director of Health, Housing and Adult Social Care and the Corporate Director of Economy & Place
- f) Note the steps required to fully investigate the potential to deliver sites through a development agreement with a partner/s
- g) Note that a framework for the development partner agreement will be produced and brought to Executive for approval prior to starting the formal procurement process

Reason: To progress with the building of much needed new homes in York.

## Background

4. The average house price in York is now 9.6 times higher than the average salary with the city becoming 14% less affordable than it was 10 years ago. In the last 10 years, there have been approximately 600 housing completions per year compared to an emerging Local Plan target of 867. On average just over 130 of these completions per year are classified as affordable housing. This limited supply and high demand is continuing to force up prices having a marked impact on our communities, particularly those on low to middle incomes including key workers, first time buyers and young families. The unaffordability of

houses for sale has increased the demand for private rented homes resulting in a rent rise of 17% in the last five years. This further pushes home ownership out of reach due to the difficulty of saving for a deposit whilst paying a significant amount of income as rent. Issues of housing affordability also negatively impact on the city's economic and social ambitions.

5. There is an opportunity for the City of York Council to take a direct role in helping to address some of the housing issues in the city. Central government are encouraging local authorities to build more housing, highlighted within the Housing White Paper (*Fixing our broken housing market*). The White Paper aims to diversify the housing market such that the public sector plays a greater role in delivering housing for its residents. Consistent with this central ambition the council has established a strategic partnership with the Homes and Communities Agency to help access support and funding opportunities. The council is in a strong position to lead on direct housing delivery through the utilisation of a number of land assets which are currently surplus or are expected to be so in the near future.
6. A number of other local authorities have taken the step of establishing housing development companies to help deliver the new homes that their communities need. The result of a survey looking at Local Authority housing development companies was recently published by the Association of Public Service Excellence. From the 70 authorities who responded to the survey, 44% have an established housing development company with a further 24% considering establishing one in the future. The majority of these companies are wholly owned by the council and established with the intention to build new homes for sale and rent.
7. The principle of council led housing delivery through a development company was considered by Executive in March 2017. Executive agreed to :-

*I. Agree to enter into a Memorandum of Understanding (MoU) to establish a strategic partnership for housing development and investment with the Homes & Communities Agency.*

*II. Agree that a detailed business case for council-led housing development, including project management, governance, funding arrangements and risk assessments be presented for Executive approval*

*III. Agree that the council will explore partnership and funding opportunities to deliver accelerated housing on public land.*

*IV. Agree that as part of the development of business cases the council will engage with health and education partners to explore the local impacts of housing development on other strategic services.*

*Reason: To progress with the building of much needed new homes in York.*

8. A separate paper has been prepared to consider the 'Stage 1 Feasibility' and 'Stage 2 Planning' site development business case related to the former Lowfield School. This follows on from the submission of planning applications to deliver 165 new homes on this site.

## **Options**

9. Option One – To approve the recommendations set out in this report to enable the council to lead on the delivery of much needed new housing in the city across multiple tenures.
10. Option Two – To not proceed with the Housing Delivery Programme and to prepare a further report for the sale of council land for private sector housing development.

## **Analysis**

### Option One

## **The vision for council led housing delivery and taking the vision forward**

### *Core Vision*

11. The core aims of the Housing Delivery Programme are to:
  - Accelerate the delivery of an increased volume of housing in the city, across a range of tenures to help meet the housing need of the city
  - Generate a financial return to the council, to deliver land capital receipts and provide additional revenue returns

12. Council led housing delivery can fulfil a number of key social, environmental and economic policy objectives. This includes the delivery of housing across multiple tenures allowing the council to help meet the housing need of a greater range of people in the city than is currently possible through the Housing Revenue Account (HRA). Each development would consist of a mix of market and affordable housing, both for sale and for rent. Some housing would be sold on the open market to deliver a capital receipt to the council. This would include housing aimed at first time buyers to help them onto the property ladder and housing sold to older people to enable them to downsize and release family housing into the market. A proportion of the housing would be retained by the company and let at market or intermediate tenure rents in order to generate a long term revenue stream for the council to help support future service delivery. This will provide good quality well maintained housing for those who wish to have the flexibility of renting. Retaining some houses for rent also allows the asset to appreciate in value and be sold at a future stage to deliver a capital receipt to the council if required.
13. It is anticipated that each site would deliver affordable housing with the **whole programme aiming to deliver a greater number of affordable homes than planning policy would require** from a market house builder. The intention is to deliver affordable housing both for social rent, in line with council policy to meet those in the most acute housing need, and also some intermediate affordable housing such as shared ownership. There is an opportunity for the HRA to acquire the affordable housing, subject to budget availability. An updated HRA business plan was approved by Executive on 15<sup>th</sup> November 2017 which included a £20m investment fund to support additional affordable housing delivery in the city. Alternatively the housing could be offered to other Registered Social Landlords with the council retaining nomination rights ensuring that those in greatest need have the opportunity of a home. The level of affordable housing will be determined on each site through consideration of a detailed business case with reference to the overall plan objectives.

## Scope

14. The council is in a strong position to lead on direct housing delivery through the utilisation of a number of land assets which are currently surplus or are expected to be so in the near future. There are also opportunities for the council to take a direct role in the delivery of residential accommodation by linking up with, for example, the Castle Gateway project and exploring opportunities for making more efficient use

of car parking assets located close to the city centre whilst still retaining their primary use for parking. Executive are asked to approve the scope of the Housing Delivery Programme. This initially consists of the following pieces of land (in alphabetical order) :-

- Former Askham Bar Park and Ride
- Former Burnholme College
- Castle Piccadilly,
- City Centre car parks,
- Former Clifton Without School,
- Hospital Fields Road/Ordnance Lane,
- Former Lowfield School,
- Former Manor School,
- Tang Hall Library,
- Woolnough House.

### **Delivery through a Development Company**

15. Initial legal advice has been procured from Bevan Brittan who have experience of advising a number of other Local Authorities on issues related to housing development ambitions. The advice responds to a number of questions covering issues of vires, governance, liability, state aid, and procurement. This advice is included as Annex 1 attached to this report.
16. Whilst the council could seek to develop housing directly, the legal advice we have received is clear that the most robust and appropriate approach for the council to lead on the delivery of housing development of the scale proposed across multiple tenures, is to act through a development company limited by shares. This is the approach taken by a number of other local authorities as the vehicle for delivering a range of housing ambitions.
17. The proposed company would be wholly owned by the council and would be structured around a Shareholder Board and a Director Board. It is proposed that the existing council Shareholder Committee act as the Shareholder Board. The Company Board would be led by a Managing Director (MD) and take responsibility for the day-to-day operation of the company in accordance with the approved business plan. The Company Board would report to the Shareholder Committee as required by the council's constitution.

18. It is proposed that the company would be established to be Teckal compliant. This would enable land to be transferred between the council and the development company without needing to go out to tender. A Teckal compliant structure guarantees that the company adheres to the same public sector procurement rules as the council; ensuring transparency and best value is achieved.
19. In order to operate a portfolio of private rented stock (PRS) it may be necessary to establish a separate entity within the group structure of the development company in order to maximise tax efficiency and manage commercial risk. This option will be detailed in a future report setting out the detailed company structure and business plan.

### **Opportunities for Delivery through Partnership/s**

20. The experience of a number of council led housing development companies is that housing delivery at scale is best achieved through working with a development partner/s. This could be a construction contractor, a house builder, or a housing association. Working in partnership has enabled other authorities to deliver at a greater scale than would be possible acting alone due to the opportunity to share resources, investment, costs and risks whilst utilising the expertise of the partner organisation in terms of commerciality, technical skills, cost control, sales and marketing. It is considered that this approach best meets the council's objective of accelerating housing delivery in the city across multiple sites.

### **Delivery Route**

21. Subject to Executive approval, there are three key work streams which need to be undertaken to deliver the core vision of the Housing Delivery Programme. These are:
  - a) The establishment of a housing development company
  - b) The production of an outline five year business plan for the company
  - c) Procuring a delivery partner/s
22. There is additional work associated with the delivery of the former Lowfield School site (subject to separate Executive decision). It is proposed that a housing development company is established prior to the commencement of development at Lowfield.

23. In order to establish a development company, it is proposed that external financial/tax and legal advice is procured. This will ensure that the company is structured to be effective at meeting the objectives of the programme and efficient in its operation with council control maintained. We have the benefit of learning from a number of other authorities who have already undertaken this work. It is intended to procure financial and legal specialists who have helped guide other authorities through this process successfully. One of the key messages which has been received from other Local Authority's who have established development companies is that being thorough over the upfront work in establishing a company is essential to deliver the best outcomes. It is anticipated that the establishment of a company will take a minimum of between 6 and 8 months from an Executive resolution to do so.

24. The outline of a five year business plan will be developed and brought before Executive for consideration in tandem with the formation of the development company. The business plan would include initial design feasibility work for those sites within the scope of the programme, cost and revenue analysis, and funding/borrowing arrangements.

25. Prior to procuring a development partner the council needs to define exactly what it wants from any development partnership with another organisation. Further soft market testing will be undertaken in order to explore available opportunities prior to any formal procurement process. The results of this due diligence will be brought before Executive for consideration, after which the formal procurement process would be undertaken.

## Resourcing

26. In order to complete the work streams outlined as parts a) to c) above, the following resource is required to take the project through to the end of 2018/19 (including spend to date):

Resource	Estimated cost
External legal and financial advice in setting up the company (including initial legal advice)	£110k
Design feasibility work, costing and revenue consultants to aid the production of a business case	£80k



Interim Managing Director position	£100k
Utilisation of existing internal resources - legal, finance, housing and procurement	Time to be suitably prioritised
<u>Core Team Operating Costs</u>	
Commercial Project Manager (already in post) – Grade 12	£120k
Recruitment of Commercial Project Coordinator – Grade 7	£35k
Misc Other Costs	£5k
<b>Total</b>	<b>£450k</b>

27. It is recommended that if Executive decide to proceed with the establishment of a housing development company that the recruitment of an Interim Managing Director should commence as soon as possible to ensure that a suitably qualified and experienced person is in place to help guide the council through the process of establishing a company and the creation of a five year business plan.
28. A sum of £160k has already been provided to the project from grant funding provided by the Homes and Communities Agency and One Public Estate. It is also recommended that the £100k allocated by Executive to undertake HRA stock asset transfer work (Executive Oct 2016) that has since been retracted (HRA Business Plan Update Executive Nov 2017) be allocated to this project.
29. This leaves a balance to be funded of £190k. It is recommended that this is funded initially from the Venture Fund. The Venture Fund balance at 31<sup>st</sup> March 2017 totalled £2.6m. Executive have approved up to £1.3m to support the Community Stadium Project leaving unallocated funds of £1.3m. Executive need to be aware that the above costs would be sunk into the project and could not be retrieved if the housing development company is not established. The intention is that these upfront costs would be repaid through company surpluses transferring to the council. Whilst the above represents a significant additional cost to the council as well as being an additional internal resource ask, this work is essential in establishing an efficient housing development company and the formation of a five year business plan for the company.

## Costs of operating a Development Company

30. Executive also need to be aware that in addition to the upfront costs set out above, there is a requirement for the Council to act as the funder for the Development Company to cover both early year running costs and construction costs. This will be considered in detail when the five year business plan is brought before Executive for consideration. As a guide to the potential operating costs of the company, based on the operating model of a Local Authority with a development partner engaged, the below table is presented:

<i>Table 2</i>	Cost per annum (+ on costs)
Managing Director	£100-120k
Head of Development	£65-70k
Project Coordinator	£30k
Accountant (0.5 FTE)	£20k
Auditor	£10k
<b>Total</b>	<b>£225 - 250k</b>

31. An additional report will be brought before Executive with further details of the proposed company structure and its operating costs. The council would need to fund these operating costs for a period of time until the company has received significant revenue from house sales. In the medium and long term, the company will be expected to cover its own operating costs.

## Development Cash Flow

32. An indicative site development cash flow is presented in Annex 2. This graphically demonstrates that the council would be required to lend to the development company, funding the upfront costs and initial periods of construction. The borrowing requirement peaks after approximately a year of construction at which point the company starts to generate revenue through housing sales. The company pays for the land at a previously agreed price towards the end of the development cycle which leaves a development surplus which would be returned to the council as a dividend. This approach would be required for each site development, with the peak borrowing requirement altering depending on the specific cost and revenue profile of the particular site. When the five year business plan is brought before Executive, this will contain further details

regarding how the cash flow would look over multiple sites with worked up estimates for each site.

33. Prior to the council lending any money to the company, Council will be asked to consider and approve the peak borrowing level for the company alongside the mechanism for the company to be able to draw down the required funding. Full details, including the interest rate attached to any borrowing will be brought before Council for consideration alongside the five year business plan.

**Bringing development proposals forward through a Site Development Business Case for Executive decision**

34. This report outlines how the council could take the lead in accelerating the delivery of housing in the city and the potential sites which could be utilised to achieve this ambition through a housing development company. In terms of decisions over specific housing developments, it is proposed that Executive retains decision making power through a site business case approach.

35. Any sites which are brought forward for development will be considered through a site development business case. The table below outlines the key site based decision making points and the proposal for whether this is to be considered by Executive or Shareholder Committee. Only once the first three stages are approved would land transfer into the company and development commence.

Appraisal Stage	Details	Reports to
1-Feasibility	High level cost and revenue appraisal supported by a design feasibility for the scheme, this detail is to be included in the company's five year business plan	To be approved by Executive
2-Planning	Costed development proposal prepared by the development company prior to the submission of a planning application. If approved by Executive, the company would sign an option agreement to purchase the land at its 'red book' valuation reflecting the development proposed.	To be approved by Executive
3-Pre-construction	Following planning permission and when construction costs are known, a final pre-	To be signed-off

	commencement development appraisal would be undertaken to ensure this meets the outcomes approved by Executive at the Planning Appraisal stage. If so, the appraisal would be signed off by the Shareholder Committee at which point the company could draw down finance from the council and take up its option to purchase the land. If the appraisal is less favourable than that approved by Executive at the Planning Appraisal stage, development would not proceed without a further Executive resolution to proceed.	by Shareholder Committee
4-Practical completion	This appraisal is carried out post practical completion of the construction to inform Shareholder Committee of likely financial surplus.	Presented to Shareholder Committee
5-Final account	A final account of the scheme which can be compared back to the first four appraisal stages with development surpluses returned to the council.	Presented to Executive

36. In addition to the formal appraisal stages outlined above, it is also proposed that the development company report to the Shareholder Committee every 6 months to update on progress and any potential issues.

### Option Two

37. There is the option of not undertaking a programme of council led housing delivery. The primary implication is a lack of control over the delivery of housing and a likely reduction in the number of affordable houses delivered in the city in the next five years. Not proceeding with the programme would end the possibility of additional capital and revenue surplus generation from council led residential development. However, this approach would still yield a significant capital receipt from land sales which carries a lower risk than the council owned development company undertaking the development.

### **Council Plan**

38. This plan supports the Council's priorities to provide:

- **A prosperous city for all** – where local businesses can thrive and residents have good quality jobs, housing and opportunities – The Housing Delivery Programme proposes considerable investment in new housing which will include a significant boost to the local economy.
- **A focus on frontline services** – to ensure all residents, particularly the least advantaged, can access reliable services and community facilities – The Housing Delivery Programme allows a number of policy objectives to be achieved alongside residential developments.
- **A council that listens to residents** - to ensure it delivers the services they want and works in partnership with local communities – The Housing Delivery Programme proposes extensive public consultation on a site by site basis in helping to shape development proposals.

## Implications

39. The implications arising from this report are:

- **Financial** – The funding of the upfront development costs is covered in paragraphs 26-29. Prior to approval of a Housing Development Company it will be necessary to complete the business plan which will detail costs and revenues for both the company and the council. The financial and legal advice commissioned will be key in determining the most efficient way of structuring the company.
- **Human Resources** – The recruitment of an Interim Managing Director and Commercial Project Coordinator is proposed. Given the interim nature of these posts and the fact that these roles will transfer into the development company it is proposed that these will initially be recruited through Work with York.
- **Equalities** – An equality assessment will support the detailed business case.
- **Legal** – A legal advice note appears as Annex 1. While this reflects the current law Members do need to be aware that the Housing White Paper issued earlier this year indicated that the Government, while supporting innovative models such as housing companies, wants to see all tenants that local authorities place in new affordable properties offered equivalent terms to those in council housing, including a right to buy their home. Officers' understanding is that this would apply only to affordable housing. In York's case it is intended that such houses be transferred into the HRA or to another registered social landlord and so would be subject to such rights in any event. It does not appear to be the case that the Government intends to further extend these rights to private rented housing made available for market rent.

- **Crime and Disorder** – None
- **Information Technology** – None
- **Property** – The scope of the Housing Delivery Programme includes numerous sites under the ownership of the council.

## **Risk Management**

40. There are a number of risks which need to be fully considered before a decision is made as to whether to proceed with the next steps in setting up a development company, producing a five year plan and bringing sites forward for development. Much of the work undertaken incurs a cost which is sunk into the programme or a specific site proposal which cannot be retrieved. The production of site design work, costing and revenue analysis has an associated cost and resource requirement. If Executive decide not to progress with one or more sites after this work has been undertaken, these costs cannot be retrieved.
41. The approach outlined in this paper is that the council would gain significant benefits from working with one or more development partners to deliver housing across multiple sites. Executive need to be aware that working with other organisations adds a new layer of risk in respect of disagreements or the stability of the partner organisation. Suitable mechanisms need to be put in place to sufficiently manage this risk as far as possible and this will be outlined in the 5 year business plan.
42. Any large scale development brings with it a number of site specific risks, both in terms of planning and the construction stage of site development. Each site development proposal will include consultation with key stakeholders and the planning department; however there is the potential that the proposed developments may not achieve planning permission. Furthermore, once a development is under construction, there is the potential for costs to increase due to unforeseen circumstances. A risk register will be utilised both pre and during construction to help manage costs.
43. The final key risk is associated with the market. Due diligence will be carried out on all site proposals in respect of likely revenues and costs. However, changes in market conditions are difficult to estimate and could have a significant impact on projected surpluses. A fall in sale or rental prices from those estimated within the financial model or increase in costs would have a negative impact on financial returns and put the council's

lending at risk. Some of this risk can be mitigated through the possibility of the HRA or other Registered Social Landlord in the city buying additional houses as well as through exploring grant opportunities in partnership with the HCA.

44. The sale of land would mitigate these risks and bring an early capital receipt. However, this would result in the council losing control over these sites and in so doing its ability to play a positive role in responding to the current housing problems in the city.

### Contact Details

**Author:**

**Michael Jones – Commercial  
Project Manager  
Regeneration and Asset  
Management  
01904 552 598**

**Chief Officers Responsible for the report:**

**Tracey Carter – Assistant Director:  
Regeneration and Asset Management**

**Martin Farran – Corporate Director:  
Health, Housing and Adult Social Care**

**Neil Ferris – Director: Economy and Place**

**Report**  **Date** 28<sup>th</sup> November 2017  
**Approved**

**Specialist Implications Officer(s)** List information for all

Financial  
Name Patrick Looker  
Title Finance Manager  
Tel No.551633

Legal  
Name Andy Docherty  
Title – AD Legal and Governance  
Tel No :- 551004

**Wards Affected:** List wards or tick box to indicate all

**All**

**For further information please contact the author of the report**

**Background Papers:**

Executive, Thursday, 16th March 2017 – Strategic Partnership Opportunities with the Homes and Communities Agency

**Annexes**

Annex 1 – Legal advice

Annex 2 - Indicative Site Development Cash flow