

<b>Meeting:</b>	Executive
<b>Meeting date:</b>	14 April 2026
<b>Report of:</b>	Pauline Stuchfield, Director of Housing and Communities Garry Taylor, Director of City Development
<b>Portfolio of:</b>	Councillor Michael Pavlovic, Executive Member for Housing, Planning and Safer Communities

## **Decision Report: Housing Delivery Programme Delivery Strategy**

### **Subject of Report**

1. City of York Council has built a strong, proven track record of delivering high-quality homes and placemaking. Through the Housing Delivery Programme (**HDP**), the Council has successfully delivered new homes at Lowfield Green, Duncombe Square and Burnholme Green. The Council has also completed refurbishment and retrofit at Bell Farm, redevelopment of Marjorie Waite Court, Lincoln Court and a refurbishment of Glen Lodge.
2. The Council has, over recent years, committed to delivering 100% affordable homes on a number of Council-owned sites and is actively progressing this commitment. This includes demolishing buildings at Ordnance Lane and securing a new planning permission; developing a new business case for Castle Mills; submitting a planning application for Willow House and advancing regeneration proposals for Walmgate; and bringing forward proposals for supported housing at Lowfield Plot A. The Council has also developed a programme to improve and expand Gypsy and Traveller accommodation in the city. The Council has secured significant external grant funding to help unlock delivery. Each of these proposals has been shaped through extensive engagement with local communities and stakeholders to ensure they meet York's housing needs. The Council also continues to work in

partnership with Registered Providers (**RPs**) to bring forward delivery of 100% affordable housing on smaller Council sites.

3. To unlock the next phase of delivery, develop at pace and scale, and with reduced risk to the Council - this report seeks approval for a new long-term Delivery Strategy. The Strategy proposes appointing a Strategic Delivery Partner (such as a housebuilder or contractor) to deliver new build housing within the HDP pipeline. This partnership approach is designed to accelerate delivery and strengthen resilience in challenging market conditions, while also supporting wider ambitions across the public estate, including opportunities linked to One Public Estate, health-estate renewal and neighbourhood-based regeneration.
4. Through this Partnership, the Council will aim to deliver over 315 new affordable homes (subject to planning and viability) across an initial phase of five Council-owned sites: Ordnance Lane, Willow House, Lowfield Plot A, Castle Mills and Manor School. Ordnance Lane and Willow House are anticipated to start on site with early site mobilisation and preparation activity shortly after contracts are agreed. Demolition work at Willow House is expected to start over the next few months, in readiness for the Strategic Delivery Partner to build the new homes.
5. The Delivery Strategy has also been designed as a flexible vehicle for future growth, capable of supporting the delivery of additional sites in the HDP, as well as major strategic sites that may come forward through wider Council asset programmes or One Public Estate partnership work. This includes complex public sector or brownfield regeneration opportunities involving NHS, Ministry of Defence or other public landholdings. The proposed governance and delegations ensure that (subject to future Executive decisions) the Partnership can enable faster, more coordinated delivery across the wider public sector estate, contributing to citywide ambitions for new homes, regeneration, health facilities, community spaces and placemaking. The scale and scope of delivery achieved through the Partnership will be subject to governance, viability, market appetite and prevailing market conditions.
6. The proposal responds directly to the current economic climate and the continued need to deliver affordable homes at pace and scale. A programme-based long-term Delivery Strategy aims to

secure greater value, consistency and efficiency. Crucially, it also creates a platform to deliver a lasting social value legacy for York, with a city focused long-term Social Value Plan aligned to the Council Plan's priorities. The Strategic Delivery Partner will be required to invest in local skills, employment, apprenticeships and York's supply chain, ensuring the benefits extend well beyond the construction period and contribute meaningfully to the city's long-term social and economic wellbeing.

7. The Partnership is envisaged to support delivery over the long-term, over a period of approximately 10 years, with potential 5-year extensions, subject to partner performance and CYC approvals on a site-by-site or group basis. The Partnership does not guarantee work to the Partner, with all schemes subject to separate business cases, viability testing, governance and site-by-site contract awards.
8. The Partnership model promotes collaborative programme management, drawing on the Partner's technical expertise to lead design development, planning, and delivery. Designs and planning applications will continue to be developed in line with CYC requirements and in consultation with local residents and stakeholders. The Council will act as a robust client and contract manager, retaining control over key design, quality, tenure and specification requirements, with the Partner acting as development and delivery manager. The Council's internal teams will continue to play a central role in programme leadership, design oversight, quality assurance, and community engagement.
9. Under this Strategy, the Council is anticipated to retain strong control over the delivery of each scheme, with site-specific contract awards and detailed, robust contractual requirements. No major construction contract will proceed without an updated business case being brought back to Executive for approval.
10. The Strategy promotes improved cost certainty and programme management by effectively aligning key delivery risks, such as design development and planning, with the Partner, while the Council retains strong control and oversight.
11. To support this Strategy and the wider work of the HDP, the Council plans to procure an expert client-side multidisciplinary professional team, providing specialist cost, commercial, design,

contract administration, site inspection, viability and technical advice and oversight. This team will support the Council in ensuring robust programme management. The Council also has experience of development partnership working as part of its engagement on York Central.

12. To safeguard the delivery of 100% affordable housing schemes, this report proposes a necessary shift from the current requirement in the HDP Design Manual to deliver Passivhaus-certified homes. This proposal is driven by the fact that the current programme has not secured a sufficiently strong response from the market to build the new homes. A combination of factors has contributed to this position including current market conditions, risk allocation, and the complexity and buildability of schemes as presently configured, including the requirements associated with Passivhaus-certification, alongside the affordability challenges associated with the current approach.
13. It is proposed that new homes are delivered to the Homes England Healthy Homes Standard (**Annex A**) to ensure that new homes support residents' health, comfort, and wellbeing. This Standard maintains a high-quality, low carbon approach. It achieves EPC A rating on all houses, as well as flats where technically achievable. As flatted developments have less roof space relative to the number of homes, this can constrain the amount of onsite solar PV available to support achieving EPC A ratings. New homes will also exceed current national Building Regulations and align with the forthcoming Future Homes Standard. The Council is also reviewing potential enhancements, such as consideration of recognised approaches to building energy performance, such as the Association for Environment Conscious Building (AECB). The proposed approach aims to safeguard the delivery of much-needed genuinely affordable housing, by ensuring that homes are affordable to build, manage and maintain over the long-term.

## **Benefits and Challenges**

### **Benefits**

14. The proposed Strategic Delivery Partner approach aims to:

- Secure the delivery of 100% genuinely affordable housing (a mix of social rent and shared ownership) on an initial phase of Council-owned sites in a way that is financially viable and sustainable within the Housing Revenue Account's (HRA) 30-year Business Plan.
  - Deliver a range of different housing and mixed-used schemes on Council-owned land and other sites, subject to partner alignment.
  - Provide a flexible delivery vehicle that can enable and accelerate the future delivery of wider strategic sites, including opportunities arising through One Public Estate and major brownfield regeneration schemes, subject to future Executive approval.
  - Provide a clear, long-term pipeline of delivery to improve market attractiveness to contractors and supply chains.
  - Achieve programme-wide delivery efficiencies.
  - Enable consistent governance, performance management, and quality assurance across all projects.
  - Deliver a bespoke, city-focussed Social Value Plan, aligned with the Council's priorities (including education and skills and economy) funded by the Partner.
15. Strategic delivery partnerships are a common approach adopted by local authorities to deliver housing and regeneration at scale. This includes Hull City Council and Cambridge City Council. The Council will draw on lessons learned from its public sector partners.
16. The keys to ensuring a successful public-private partnership, which will be adopted by CYC, include:
- Alignment of key strategic objectives from the outset.
  - Clear contractual requirements and robust, unambiguous legal agreements.
  - Proactive and robust ongoing contract management.
  - Ongoing open communication, collaborative working and problem solving between the partners.
  - Commitment to operating on a transparent, open book basis.
  - Effective relationship building and management.
  - Continuous programme improvement and learning.

17. Homes will be delivered in accordance with the Homes England Healthy Homes Standard, and Future Homes Standard, ensuring that new homes support residents' health, comfort, and wellbeing.

## Challenges and Risks

18. Key risks and mitigation strategies include:
  - **Dependency on a Single Strategic Delivery Partner** - Creating potential programme-wide disruption in the event of performance issues or disputes. Mitigations include clear contractual requirements, robust performance standards, Key Performance Indicators, and effective contract management supported by the client-side multidisciplinary team.
  - **Viability and Affordability Challenges** - Given the wider financial pressures facing the Council, each scheme will be modelled and tested within the 30-year HRA Business Plan, or General Fund, with opportunities to secure external funding maximised. Cost management will be rigorous throughout all stages of delivery. Contract awards will be made on a site-by-site basis. Entering into any major construction contract will be subject to Executive approval informed by an up-to-date business case reflecting the latest cost estimates and market conditions at the time.
  - **Pressures Associated with Delivering Multiple Schemes Concurrently** - The programme delivery approach enables better phasing, prioritisation and flexibility in response to changing market or financial conditions. Schemes will be programmed on a phased basis over the long-term to ensure they are deliverable and affordable with sufficient resources allocated by both partners.

## Policy Basis for Decision

19. The proposal directly supports:
  - The Council Plan 'One city for all' (2023 - 2027), particularly Priority (e) to increase the supply of affordable housing.
  - The Homelessness and Rough Sleeping Strategy (2024 - 2029), through the expansion of social housing.

- The Climate Change Strategy (2022 - 2032), through the delivery of energy-efficient, low-carbon homes and sustainable neighbourhoods.
  - The Health and Wellbeing Strategy (2022 - 2032), by addressing health inequalities linked to poor quality housing.
20. High-quality housing, regeneration and placemaking is fundamental to achieving better health and wellbeing outcomes, improved educational attainment and stronger economic resilience for local communities. The Council and its new Partner will continue to support these wider outcomes.
21. Delivering affordable and sustainable housing is also a key priority for the York and North Yorkshire Combined Authority (**YNYCA**).

## **Financial Strategy Implications**

22. All delivery under the Partnership must remain financially viable within the HRA 30-year Business Plan or General Fund. It is anticipated that the Partner will support the development of scheme business cases, which will be updated as each scheme progresses. Contract awards will be made on a site-by-site basis. Executive approval will be required before entering into major construction contracts in the HDP.
23. Schemes in the initial phase of the Strategic Delivery Partnership have existing approved budgets for pre-construction, with Ordnance Lane also having an approved budget for construction. The procurement processes for the Strategic Delivery Partner and multidisciplinary professional team, as well as early delivery under the Partnership, are expected to be funded from these existing approved budgets where available, or from any other available revenue funding. Further approvals will be required to secure additional funding, including to cover more construction activity.
24. CYC intends to continue to fund schemes using a blend of HRA borrowing, grant funding, Section 106 monies, and Right to Buy receipts. Schemes will maximise all external funding opportunities including Homes England funding and devolved funding via the YNYCA. Where appropriate, opportunities for the Partner to finance specific schemes (for example, where commercial space or homes for sale may be managed by the Partner) may be explored, with any proposals subject to Executive approval.

25. Delivering new homes directly through the HRA enables the Council to replenish stock lost through Right to Buy and supports growth in rental income across the HRA 30-year Business Plan. Whilst short-term borrowing will increase to fund construction, the modelling to date across the HDP indicates that generally the long-term financial impact is positive.
26. Industry feedback and HDP's delivery experience indicates that delivering Passivhaus-certified homes, whilst delivering high building energy performance, has not had a sufficiently strong response from the market and it can have cost and programme implications. The extent of these impacts varies on a scheme-by-scheme basis, and can be moderate, or in some cases, significant. Factors such as design complexity, site conditions and specification requirements all have an impact. Additional investment may be required in areas such as building fabric, glazing, mechanical and electrical systems, and certification processes.
27. A programme-wide approach is expected to improve cost efficiency and supply chain continuity. Each scheme will include appropriate cost contingencies and up-to-date risk assessments which are actively managed. Lessons learned will be carried forward.

## **Recommendation and Reasons**

28. Executive is asked to:
  - a) Approve the Delivery Strategy for the HDP, including an initial phase of five sites (Ordnance Lane, Castle Mills, Willow House, Lowfield Plot A and Manor School), via the appointment of a long-term Strategic Delivery Partner and client-side multidisciplinary professional team.
  - b) Agree that the Delivery Strategy, subject to future Executive approvals, may be used to support the delivery of additional sites in the HDP, as well as strategic sites that may come forward through the Council's wider asset programmes and One Public Estate partnership work, including major public-sector land opportunities and significant brownfield regeneration schemes.

- c) Approve that prior to entering into any major construction contract in the HDP, a business case will be brought back to Executive for approval.
- d) Agree to delegate authority to the Director of Housing and Communities and/or the Director of City Development (as appropriate based on the site) (in consultation with the Director of Finance and the Director of Governance) to take such steps that are necessary to procure and appoint the Strategic Delivery Partner, multidisciplinary professional team, and demolition of buildings at Willow House, and to determine the provisions of and enter into the resulting contracts (including any and all partnership agreements, pre-construction services agreements and early / minor / enabling / demolition works contracts) and any other necessary legal documentation (including any and all planning agreements and/or highways/land agreements as required; however, for the sake of clarity this delegation is not for any requirements of either the Local Planning and/or Highways Authority), and the provisions of any subsequent modifications and/or extensions thereto, in accordance with the Council's Financial Regulations set out in Appendices 10 and 10a of the Constitution (the "**Finance Regs**"), the Contract Procedure Rules set out in Appendix 11 of the Constitution (the "**CPRs**") and (where applicable) the Procurement Act 2023 (the "**Procurement Act**") and the Public Contract Regulations 2015 (the "**PCRs**"), within approved budgets and subject to the availability of funding.
- e) Agree to delegate authority to the Director of Housing and Communities and/or the Director of City Development (as appropriate based on the site) (in consultation with the Directors of Governance and Finance) to agree and enter into any land assembly, access, highways, easement, wayleave, title regularisation, or minor freehold/leasehold disposal necessary to deliver individual schemes (and the provisions of any subsequent modifications and/or extensions thereto), where consistent with an Executive-approved business case and statutory requirements.
- f) Agree to delegate authority to the Director of Housing and Communities and/or the Director of City Development (as appropriate based on the site) to negotiate and enter into any Section 106, Section 278, Section 38, utilities, adoption, estate management, collaboration or development agreements required to implement schemes (and the provisions of any subsequent

modifications and/or extensions thereto), following Executive approval of the relevant business case.

- g) Agree to delegate authority to the Director of Housing and Communities and/or the Director of City Development (as appropriate based on the site) (in consultation with the Director of Finance and the Director of Governance) to undertake feasibility and due diligence work on additional sites in the pipeline, and to bring forward scheme-specific business cases to Executive for decision on inclusion in the Partnership.
- h) Agree to delegate authority to the Director of Housing and Communities and/or the Director of City Development (as appropriate based on the site) (in consultation with the Director of Finance and the Director of Governance) to determine the provisions of and enter into any resulting grant funding agreements and/or Memorandums of Understanding with any external funders, and the provisions of any subsequent modifications and/or extensions thereto, to ensure compliance with the Subsidy Control Act 2022, the Finance Regs and the CPRs.
- i) Approve the change from the Passivhaus-certification requirement for new homes to the adoption of the core requirements within the Homes England Healthy Homes Standard, and Future Homes Standard, as well as consideration of enhancements.
- j) Note the availability of Compulsory Purchase Order (CPO) powers, and to receive further reports (should they be required) in respect of any potential CPOs which may be required to facilitate the delivery of the schemes.

**Reasons:**

- To ensure any works and/or services are procured in compliance with the Finance Regs, the CPRs, and (where applicable) our statutory duties under the Procurement Act 2023 and the Public Contract Regulations 2015.
- To ensure that any grant funding arrangements are entered into in compliance with the Subsidy Control Act 2022, the Finance Regs and the CPRs.
- To approve the Delivery Strategy and associated appointments, providing a single, programme-based route to secure capacity,

continuity and best value through a Strategic Delivery Partner and client-side multidisciplinary team.

- To confirm the inclusion of the first phase of sites within the Partnership, ensuring a clear and sequenced pipeline that can be managed efficiently on a programme basis.
- To enable early feasibility work on wider strategic development opportunities, including sites emerging through One Public Estate and major brownfield regeneration schemes, and to ensure that any proposal to include such sites in the Partnership is supported by a business case brought to Executive for decision.
- To endorse site-by-site contract awards and programme phasing, preserving CYC control and flexibility to respond to market conditions and affordability while maintaining delivery pace.
- To require updated scheme-specific business cases for Executive approval prior to entering major construction contracts in the HDP, strengthening governance, affordability and risk management at each gateway.
- To enable the Council to assemble and manage land, infrastructure and property interests necessary for scheme delivery, ensuring legal, planning and operational readiness.
- To allow the Council to enter into grant funding, infrastructure, highways, utilities and development agreements needed to implement individual schemes efficiently and in accordance with statutory requirements.
- To support timely and coordinated delivery of the HDP by providing appropriate delegations to progress activity.
- To ensure that schemes can be delivered in line with Executive approved business cases, the Council Plan, and the wider objectives for affordable housing, regeneration, social value, economic inclusion and climate action.
- To adopt the Homes England Healthy Homes Standard and Future Homes Standard to maintain high-quality, low carbon design while ensuring schemes remain deliverable and financially sustainable.

## **Background**

### **29. Market Insight**

The HDP has seen lower levels of market appetite to build new homes in the programme than anticipated. The recent procurement for the construction of 101 homes at Ordnance Lane did not result in a contract award, indicating a limited market

response. This reflects a combination of factors including national market conditions characterised by high inflation, supply chain fragility and contractor risk aversion, alongside the complexity and buildability of schemes as presently configured, including the requirements associated with Passivhaus-certification.

CYC is undertaking Preliminary Market Engagement with housebuilders and contractors to ensure that the Strategic Delivery Partner opportunity meets the Council's objectives and priorities, whilst also being commercially attractive to the market. The proposed approach seeks to align risk allocation, specification and delivery model with current market capacity, with the aim to improve the attractiveness and deliverability of the programme.

### 30. **Design Standards of New Homes**

The Council is committed to delivering high-quality, low carbon, sustainable homes that support residents' wellbeing and respond to the climate emergency. The Council's ambition is to deliver homes that produce fewer carbon emissions over their lifetime, are resilient to climate impacts, and are affordable to run, thereby helping to reduce residents' energy bills and tackle fuel poverty.

The Council will require all new homes delivered through the Strategic Delivery Partnership to meet, as a minimum, the core specifications within the Homes England Healthy Homes Standard. This will ensure that new homes support residents' health, comfort, and wellbeing. New homes will support long-term physical and mental wellbeing, enabling residents to live active, fulfilling lives in homes designed with their health in mind.

Key features of a 'Healthy Home' include:

- Good indoor air quality, comfortable temperatures, natural light, and energy-efficient performance to help reduce risks such as respiratory illness, overheating, and stress-related conditions.
- EPC A rating on all houses, as well as flats where technically achievable.
- Whole Life Carbon Assessment to measure total lifetime carbon impact.
- Accessible and future-proofed design, allowing households to adapt their home as their needs change so people of all ages and abilities can live comfortably and safely.

- Design that considers a range of resident needs and abilities, including neurodiversity.
- Age-friendly design approaches that help residents live independently throughout their lives.
- Good connectivity, access to green and play spaces, and nearby community facilities - all contributing to healthier, more inclusive living environments.

New homes will also exceed current national Building Regulations and align with the forthcoming Future Homes Standard, as well as meeting adopted local planning policy. The Future Homes Standard is designed to ensure new homes are future-proofed with low carbon heating (such as air-source heat pumps or heat networks) and high levels of energy efficiency. The Future Homes Standard is expected to reduce carbon emissions by around 75% - 80% compared to current standards. Many homes are expected to incorporate renewable technologies such as solar PV. Homes are expected to benefit from improved ventilation, reducing risks of damp and mould, alongside enhanced fabric performance.

In line with the Council's commitment to high environmental performance and tackling climate change, the Council is reviewing potential enhancements to the core requirements within the Homes England Healthy Homes Standard and Future Homes Standard. This includes consideration of recognised approaches to building energy performance, such as the Association for Environment Conscious Building (AECB).

The Council is carrying out detailed technical and commercial work to finalise a specification that delivers high-quality, low carbon homes that are affordable to build, manage and maintain over the long term.

### **31. Willow House Demolition**

To expedite delivery in readiness for the appointment of the Strategic Delivery Partner, the Council plans to enter into a demolition / enabling works contract with a separate contractor to demolish the existing buildings on the southern section of the site.

## 32. Disposals Programme Update

Officers continue to work with RPs to bring forward 100% affordable housing (no private housing) on all the following Council-owned sites, by freehold transfer or grant of a long lease, in line with the July 2024 Executive decision. Site progress includes:

- **Woolnough House** - RP is in pre application stage for 13 affordable homes. Disposal of freehold is conditional on securing planning permission.
- **68 Centre** - RP is in pre application stage for 10 affordable homes. Disposal of freehold is conditional on securing planning permission.
- **Clifton Without Junior School** - RP is in pre application stage for 8 affordable homes. Disposal via leasehold is conditional on securing planning permission.
- **Lowfield Plot B** - The site was previously marketed for extra care housing, but this did not result in a disposal due to viability challenges and site constraints. New market engagement has demonstrated interest to deliver a scheme for over 55s. Officers are considering options and may return to Executive for a decision.
- **Morrell House** - No bids received from RPs. CYC is considering alternative options. Officers will return to Executive for a decision.
- **The Glen, Ousecliffe Gardens** - No market interest in current form. CYC is considering alternative options. Officers will return to Executive.

## Consultation Analysis

33. Early feedback from the construction market, as well as experience from delivery and procurement in the current programme, have informed development of this proposal. Formal preliminary market engagement is underway to help shape the detailed Procurement Strategy and help ensure strong market interest and value for money for the Council.
34. Throughout delivery, the Council will continue to engage and consult communities and stakeholders on a scheme-by-scheme basis. Engagement will continue to be carried out in an open,

transparent, and meaningful way, ensuring that feedback from residents is taken onboard as part of the development of schemes. Consultation will be carried out in line with the Council's Public Sector Equality Duty.

## Options Analysis and Evidential Basis

### 35. Option 1 - Procure a single Strategic Delivery Partner (Recommended)

This option aims to provide programme-wide delivery at pace and scale, whilst reducing risk to the Council, as well as stronger competition and supply chain engagement. Delivery Partner expertise will help to accelerate delivery and maximise value. There will be clear and consistent governance and programme management.

Subject to Partner capability, viability, market conditions, and future governance approvals, a range of mixed tenure housing (including private) and mixed-use sites may be delivered over the long-term Partnership, including commercial space, extra care, independent living, hostel, healthcare, retrofit works and refurbishments. Sites may be Council-owned or have alternative landowners.

Risks relate to supplier dependency, mitigated by site-by-site contract awards, contractual break clauses, and effective contract management. Inclusion of sites within the Partnership does not commit the Council to delivery via the Partner as all schemes remain subject to site-specific viability, funding and governance.

The indicative timescales for next steps are set out below. Dates are subject to change, including due to procurement and governance.

<b>Activity</b>	<b>Indicative Date</b>
Preliminary Market Engagement	Spring 2026
Procurement of client-side multidisciplinary professional team	Spring - Summer 2026
Procurement of Strategic Delivery Partner	Autumn 2026 - Spring 2027

Early site mobilisation and preparation activity commences at Ordnance Lane and Willow House	Spring 2027
Further contract awards to Partner on site-by-site basis, subject to approvals	Summer 2027 onwards

**36. Option 2 - Continue Site-by-Site Delivery (Not Recommended)**

Continuing with a site-by-site procurement and delivery model would maintain flexibility and allow broader SME engagement, but it would limit the Council’s ability to deliver the HDP and other development and strategic sites efficiently at pace and scale at the programme level. This approach creates repeated procurement cycles, duplicated costs, and reduces opportunities for programme-wide learning and improvement, impacting the Council’s ability to deliver its housing, climate and placemaking ambitions and objectives.

While still viable for select sites, a scheme-by-scheme approach may reduce the Council’s ability to provide the certainty or scale required to fully optimise delivery or demonstrate strong pipeline commitment to the market.

**37. Option 3 - Dispose of Sites to RPs (Not Recommended)**

Land disposals to RPs are an important part of achieving affordable housing growth. Whilst this option has not been market tested given the priority to retain the identified sites as Council assets, it is expected that disposing of sites to RPs could transfer delivery and financial risk to RPs, generate capital receipts for CYC, and accelerate delivery on some sites.

However, for the sites in the initial phase of the Partnership, this would limit HRA rental income, reduce long-term housing assets under Council ownership, and may not guarantee 100% affordable housing outcomes on sites with viability challenges.

## **Organisational Impact and Implications**

### **38. Financial**

Funding of the housing delivery programme is by a variety of sources including right to buy receipts, section 106 monies, prudential borrowing and external grants. The availability of funding would not be impacted by the preferred option of using a strategic delivery partner for a group of schemes. Each scheme would continue to be costed on its own merits for affordability and business cases would require approval by Executive.

The current 30-year business plan for the HRA demonstrates that the planned development schemes require a large upfront investment of resources within the first 5 years, after which point the later schemes start to be funded by income streams resulting from the earlier developments. Seeking further external grants on schemes will further reduce the financial cost to the HRA.

The multidisciplinary support team would be funded from existing resources within the HRA.

### **39. Human Resources (HR)**

There are no HR implications contained within the report.

### **40. Legal**

#### **Commercial/Contract Law**

- Subject to the approval from Executive of any budget post tender, all building works contracts must be drafted, negotiated and concluded with the advice and input of CYC Legal Services and (where necessary) external legal support.
- The above assumes that any Delivery Partner is procurements under a tender exercise advertised to the market; if any other arrangement is proposed the terms and conditions of any partnership or governance arrangements will require the advice and input of Legal Services before being concluded. The principal powers on which the Council can rely upon to enter such arrangements include the Local Government (Goods and

Services) Act 1970, Sections 101 and 102 of the Local Government Act 1972, Section 95 of the Local Government Act 2003, and Sections 1 and 4 of the Localism Act 2011 (as applicable).

- The sale of any freehold or long leasehold to any RP may be subject to procurement law implications if the Council wants the RP to be under a positive contractual obligation to build housing to a specific design/requirements, within a specified period (see **Property Law** below).

### **Subsidy Control Law**

- Applications to any external funding body for grant funding by the Council are subject to Rules 6 to 9 of the Financial Regs and Rule 4 of the CPRs and must be assessed by CYC Legal Services and (where necessary) external legal support, to ensure that any subsidy awarded to the Council complies with the Subsidy Control Act 2022 prior to their submission.
- Subject to a full and proper assessment by CYC Legal Services:
  - Where the funding is to be used to finance the delivery of a contract commissioned through an open and transparent procurement process in line with the Council's CPRs and the Procurement Act or the PCR, the Subsidy Control Act 2022 should not apply under the Commercial Market Operator principle.
  - Similarly, any freehold transfer or long lease to an RP must be at open market value to comply with the Commercial Market Operator principle, as well as section 123 of the Local Government Act 1972 (in respect of General/non-HRA land) and section 32 of the Housing Act 1985 and section 25 of the Local Government Act 1988 (in respect of HRA land) (see **Property Law** below).
  - Further, where funding has been applied for under any pre-existing Subsidy Scheme (e.g., YNYCA's Brownfield Housing Fund Subsidy Scheme or Homes England's SAHP 2026 to 2036), it should be noted that any application by the Council does not need to be assessed against the principles under the Subsidy Control Act 2022. This is because the principles assessment under Act should have been completed at scheme level by either Homes England or the YNYCA for their respective schemes; therefore, with respect to any grant awards

given to the Council under a scheme, the Council are only required to demonstrate compliance with the relevant eligibility criteria under the relevant scheme. However, further advice and support should be sought from Legal Services where required.

- Where there is any conflict between the Finance Regs, or the CPRs, or (where applicable) the Procurement Act or the PCR's, and the rules or conditions imposed by the funding body, the stricter requirement will be followed.
- Any grant funding agreements will need to be reviewed, drafted and completed with advice and support from CYC Legal Services and (where necessary) external legal support.
- Officers must exercise particular care when agreeing key targets and milestone dates with funders to ensure these are deliverable. Failure to meet agreed targets may result in grant being withheld, suspended, or clawed back. Early input from relevant council teams and external advisors at application stage is key to mitigate these risks.

### **Property Law**

- The Council has statutory powers:
  - Pursuant to Section 123 of the Local Government Act 1972, to dispose of any General Fund/non-HRA land held by the Council (including granting a lease of it). Although Section 123 requires that the consent of the Secretary of State for Housing, Communities and Local Government (**SoS**) be obtained for a disposal at a price less than best reasonably obtained, such consent is automatically given for the disposal of General Fund/non-HRA land by a General Consent Order (**GCO**) where both of the following conditions are satisfied:
    - the Council considers that the disposal will contribute to the promotion or improvement of the economic, environmental, or social well-being of its area; and
    - the difference/shortfall between the consideration/monetary receipt obtained and best consideration amount does not exceed c. £2M.
  - Pursuant to Section 32 of the Housing Act 1985, to dispose of any HRA land held by the Council (including granting a lease). Although Section 32 requires that the consent of the Secretary of State is obtained for a disposal of HRA land (whether at or below market value), General Consent Orders

automatically give SoS consent to disposal/leasing of such land where:

- the disposal is at market value; or
  - by way of “short tenancy” comprising a lease for a term not exceeding 7-years (but on the expiry of such tenancy a further short tenancy of the land cannot be granted pursuant to such General Consent until at least 1-year after the original short tenancy has expired).
- Regarding HRA land, Section 25 of the Local Government Act 1988 prohibits a local authority from providing/giving “financial assistance or gratuitous benefit” when disposing of HRA land (including disposing for a price below market value) without the consent of the Secretary of State. However, a GCO does give SoS consent to the provision of financial assistance/gratuitous benefit in the limited circumstances specified in such GCO, including to the provision to any person of financial assistance or gratuitous benefit consisting of the disposal of an asset comprising a dwelling house or hostel where:
    - the aggregate amount or value of the financial assistance or gratuitous benefit provided by the local housing authority to all persons under this consent in any financial year shall not exceed the sum ascertained by multiplying the population of the area of the authority by the figure of £3.00;
    - the disposal must be:
      - by way of a lease for a term not exceeding 21-years; and
      - to either:
        - a RP; or
        - a person who intends to use the accommodation for occupation by persons with a special need; and
      - the aggregate number of dwelling-houses comprised in the disposal and any previous disposal by the local authority under this consent in the same financial year must not exceed a number (the “ceiling”) equal to the greater of 50, or one quarter of one per cent of the number of dwelling-houses owned by the authority at the commencement of the financial year in which the disposal takes place.

In any event, it is considered that GCOs give the Council power to dispose (by way of leases for a term up to 7-years) of the necessary properties to the appointed service provider

without needing to apply for and obtain express consent from the Secretary of State.

- If the Council intends to dispose of land (either by freehold transfer or by grant of long lease) to a registered provider with the objecting of the purchasing RP developing (100%) affordable housing on the land, then it should be noted that:
  - If the Council wants the RP to be under a positive contractual obligation to build such housing with a specified period, then this may be classed as a public works contract that needs to be tendered and awarded after a procurement exercise (see **Commercial/Contract Law** above and **Procurement** below). Such an obligation would need to be clearly specified in the procurement documentation and legal agreement(s). The imposition of such an obligation would likely substantially reduce the capital receipt obtained for the land as opposed to what would be obtained for a disposal without any obligation or restriction regarding use solely for affordable housing.
  - If the Council, however, is content for the RP not to be under a positive obligation to construct affordable housing on the land, the Council could instead impose a restrictive covenant prohibiting use of the land for any purpose(s) other than solely affordable housing. However, whilst this probably would not reduce the capital receipt obtained by as much as the imposition of a positive development obligation; however, this would not entitle the Council to require that the purchasing RP actually builds any affordable housing on the land (instead the RP might potentially sit on/landbank the land until they wish to develop it). Further, there are legal complexities with successfully enforcing covenants restricting use of land and there is a risk that the purchasing RP might be able to subsequently successfully apply to the First Tier Tribunal under S.84 of the Law of Property Act 1925 for modification or release of such restrictive covenant(s).

### **Planning Law**

- Any necessary planning permission will need to be obtained for each site referred to within this report. Each Section 106 affordable housing contribution received by the Council will have to be spent in accordance with the terms and conditions of the Section 106 agreement, which has secured the contribution.

- Sections 226(1)(a) and 226(1A) of the Town and Country Planning Act 1990 (as amended) empower local authorities, with Secretary of State authorization, to compulsorily acquire land to facilitate development, redevelopment, or improvement (1a), provided it achieves economic, social, or environmental well-being (1A).

#### **41. Procurement**

- Any proposed works or services will need to be commissioned via a compliant procurement route under the Council's Contract Procedure Rules and where applicable, the Procurement Act 2023. All tenders will need to be conducted in an open, fair, and transparent way to capture the key principles of procurement. Further advice regarding the procurement routes, strategies and markets must be sought from the Commercial Procurement team.
- Acknowledgement should be given to the valuable market intelligence the council has received on several procurements in relation to Passivhaus, designs and buildability. The market has informed the council of the challenges faced regards to the schemes as individuals, supply chain expertise, delivery risks, cost risks and contractual risks.
- The credible intelligence received has therefore been brought inhouse and worked through by all appropriate directorates and has been fed into the newly developed strategy for this particular project and will continue to be a consideration matter in how the council moves forwards with the scheme(s) in which this report relates to.
- Pre Market Engagement events will be crucial to help build confidence in the market and to create an attractive, and achievable project.

#### **42. Health and Wellbeing**

Public Health supports the recommendations in the report. Safe, quality, affordable housing is a cornerstone to reducing health inequalities.

#### **43. Environment and Climate Action**

While removing the requirement for Passivhaus-certification for new homes in the CYC Building Better Places Design Manual may

reduce overall environmental performance, the proposed approach ensures that the Council will continue to deliver homes that are efficient, resilient and affordable to run, thereby helping to reduce carbon emissions and residents' energy bills.

The minimum core specifications within the Homes England Healthy Homes Standard require an EPC A rating wherever technically achievable and a Whole Life Carbon Assessment to measure total lifetime carbon impact. The standard also incorporates broader sustainability measures linked to design and occupancy which support residents' health, comfort, and wellbeing.

Any uplift on this standard, such as incorporating approaches from the Association for Environment Conscious Building (AECB), should also focus on addressing the performance gap between anticipated and actual performance of new homes, and futureproofing against extreme weather events through passive design features.

The proposed changes balance the council ambitions of supporting net zero carbon and being a climate ready city with the aim of ensuring deliverability and affordability of the programme.

#### 44. **Affordability**

This proposal enables the delivery of 100% affordable housing on a number of Council-owned sites, with a mix of social rented homes and shared ownership to provide a range of housing options for residents in various forms of housing need across the city.

#### 45. **Equalities and Human Rights**

Please see **Annex B** for the Human Rights and Equality Assessment (HREA). The actions identified will be completed within the timeframes agreed. A review of the HREA should be completed within 3 years.

The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a

relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).

#### 46. **Data Protection and Privacy**

Please see **Annex C: Data Protection Impact Assessment (DPIA) Screening Checklist**. The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.

#### 47. **Communications**

The provision of housing is likely to remain a high-profile community issue and, as such, will continue to be a focus for the council's corporate communications. It is one of the priority areas within the council's communications and engagement strategy. In addition, there may be an ongoing need to directly support community engagement around particular sites. This will be considered on a case-by-case basis.

#### 48. **Economy**

An affordable accessible housing market is an essential precursor to a successful and resilient economy, as well as housing development being a driver of economic growth in its own right. The approach to delivery at scale and pace outlined in this report and support for enhanced affordability and environmental performance is welcomed in this respect.

## **Risks and Mitigations**

49. **Procurement Risk** - there is a risk of constrained or limited market interest or non-compliant bids. Mitigations include preliminary market engagement to shape a commercially attractive opportunity and procurement strategy, as well as a deliverable and commercially viable specification aligned with market capacity,

which meets the Council's objectives and priorities. The approach will retain flexibility to optimise delivery routes at a scheme level to ensure deliverability.

50. **Single Partner Dependency** - appointing a single partner may create programme-wide exposure in the event of underperformance. This will be mitigated by site-by-site contract awards, clear performance requirements, break clauses and ongoing robust contract management.
51. **Viability and Market Conditions** - construction cost inflation, abnormal site conditions and limited cross-subsidy may impact scheme viability and affordability. To mitigate this, each scheme will be subject to a separate business case, robust financial modelling and value engineering as required. Programme phasing will remain flexible and external funding opportunities will be maximised.
52. **Funding and Affordability** - delivery of schemes will require alignment with available funding and affordability within the HRA or General Fund. All schemes will be subject to separate business cases and governance.
53. **Programme** - the programme may be impacted by procurement, planning, funding and market conditions. This will be mitigated by managing the programme on a phased and flexible basis, with indicative timelines subject to procurement and governance. Early enabling works will be used to help de-risk sites where appropriate.
54. **Partner Financial Standing** - there is a risk of partner capacity constraints or financial failure over the delivery programme. This will be mitigated through appropriate financial checks and performance security (such as guarantees / bonds) as well as ongoing monitoring.
55. **Quality and Standards** - there is a risk of variability in design quality and quality assurance across a multi-site programme. This will be mitigated through robust CYC contractual requirements and strong client-side technical oversight to ensure delivery and quality aligns with the Council's objectives.

## Wards Impacted

56. All Wards

## Contact details

57. For further information please contact the authors of this Decision Report.

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## Background Papers

- Executive, 3 March 2026: *Delivering More Affordable Housing in York – Castle Mills Report Template*
- Executive, 7 October 2025: *Delivering More Affordable Housing in York – Update on the Housing Delivery Programme Report*
- Executive, 12 September 2024: *Delivering Supported Housing for Adults with Learning Disabilities and/or Autism at Lowfield Green Report Template*
- Executive, 18 July 2024: *Update on the Housing Delivery Programme and the Disposal of Surplus Sites Update on the Housing Delivery Programme including making strategic use of land assets Report.pdf*

## Annexes

- Annex A: Homes England Healthy Homes Standard
- Annex B: Human Rights and Equity Analysis
- Annex C: Data Protection Impact Assessment (DPIA) Screening Checklist

## Abbreviations

**HDP** Housing Delivery Programme

**HRA** Housing Revenue Account

**RPs** Registered Providers

**YNYCA** North Yorkshire Combined Authority