



Report to: Income Generation Sub-Committee, 11th March 2021

Report of: Corporate Director, Finance and Resources

Subject: LOCAL AUTHORITY DEVELOPMENT COMPANY

1. Recommendations

That the Sub-Committee:

- 1.1 Approves the engagement of specialist strategic housing advice to work with the Council in order to identify the most effective role the Council can play in order to respond to local development needs; and**
- 1.2 Approves the allocation of up to £10,000 from the Income Generation Fund in order to fund this work.**

2. Background

- 2.1 At its meeting of 27 January 2021 the Communities Committee approved a proposal to engage specialist housing advice to undertake a piece of work to help the Council identify how it can best intervene in the provision of social and affordable housing within Worcester based on housing need.
- 2.2 The report to the Committee focused primarily on social and affordable housing and set out proposals for work to be undertaken, as follows:
 - To update and validate the current data on unmet need across particular social and affordable housing types and client groups
 - To explore whether any Council landholdings would lend themselves to housing
 - To explore how the Council could secure new development sites or work with partners in joint venture delivery arrangements
 - To review best practice use of planning policy and other statutory powers to increase supply
 - To compare and contrast different local authority approaches to intervention and delivery and related financial and risk implications.
- 2.3 Aligned to this work, and in particular strand 3 and 5, is the option to explore how the Council can support the development of private sector housing and properties to let at market rents. Such developments can also form part of wider mixed-use sites, such as a combination of housing and retail assets. This report proposes that the two options are explored simultaneously to identify the potential for an integrated approach to developments which include both private and social/affordable housing.

- 2.4 In addressing housing need the report to the Communities Committee focused on the following types of tenure:
- (i) **Social housing** – which is owned by local councils or registered housing providers for which guideline target rents are determined through national rent regime, more affordable than private renting, and provides a more secure & long-term tenancy.
 - (ii) **Affordable housing** - Affordable housing is social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Affordable rent is no more than 80% of the local market rent (inc. service charges).
 - (iii) **Intermediate housing** – refers to homes for sale or rent, provided at a cost above social rent but below market levels subject to affordable housing definition.
- 2.5 The Council has contributed to the development of these types of properties via three main mechanisms, as indicated below. However, in many cases, particularly in respect of the third of these, affordable housing has been a component of a market-led scheme which has been a mixture of market-level and affordable housing:

Windfall sites	Sites which have been identified on the open market and developed by Registered Providers or developers, including former Council land assets transferred to Worcester Community Housing such as garage sites.
Via public sector land owned by both the City and County Council	City Council land is identified via discussions between housing, planning and property and subsequently declared surplus. The County land is evaluated via a policy to assess its suitability for affordable housing development.
Section 106 planning contributions on larger developments	Large market housing sites across the city subject to affordable housing requirements as identified in the SWDP and affordable housing SPD Examples of those developed across the city include Worcester Porcelain, DEFRA Site, Gregory’s Bank and the former Ronkswood Hospital site.

- 2.6 In assessing how the Council can most effectively support housing development, therefore, it needs to consider the best vehicle for housing delivery, which could include a Development Company established to operate on a commercial basis but with objectives to deliver mixed tenure developments to suit the Council’s dual objectives of increasing social housing and securing a return on its investments.

3. Challenges and opportunities

- 3.1 A major challenge to meeting housing need in the city is the lack of sites of a suitable size to be viable for new housing delivery. This is because of the urban nature of the city and tight boundaries of the council area. Many sites are brownfield land and are either small or expensive to develop and may have site contamination issues or in parts of the city, be exposed to risk of flooding and are either not possible to develop or require costly alleviation measures. In some cases, the sites

have not been economically viable, or developers have provided commuted sums for offsite provision.

- 3.2 As a result of the lack of suitable sites in the city for housing development to meet needs, the South Worcestershire Development Plan has proposed urban extensions in Malvern Hills and Wychavon. The Councils have worked in partnership to ensure that the sites which come forward meet Worcester's needs, and have signed a Housing Accord to embed key development principles. A challenge is that these sites have taken years to come forward whilst demand has continued to increase.
- 3.3 In addition to relationships with registered providers, the Council could strengthen its networks with local land agents, landowners, and developers to have a better perspective on available sites and pipeline activity. Due to property values and demand for land, the Council faces financial challenges if bidding for market opportunities or making effective use of commuted sums for offsite provision.
- 3.4 The Council has progressed a range of initiatives to try and create more accommodation options. It has set up a social lettings agency to work with private landlords to make affordable accommodation available and has recently extended this to include formal leasing arrangements. It has developed a strategy to bring empty homes back to use. At present, many of these initiatives are new and mobilising, have a small scale or are dependent on securing funding to operate. Therefore, they have met a small proportion of the housing needs which exist.
- 3.5 The Council has supported a local registered provider Worcester Municipal Charities who have been successful in creating accommodation above retail premises and redundant commercial buildings into affordable housing for single people and couples. This programme has been successful with over 60 units in management and is providing a viable housing option and could be easily expanded.
- 3.6 The Council is also aiming to reduce the use of B&B accommodation for homeless families and to provide its own temporary accommodation. To date, 12 units are in management, 8 in a shared house and 4 x 3 bed homes leased from Platform Housing Group. This project will give higher quality accommodation to those tenants and the Council will realise a significant cost saving and reduction of subsidy loss. It is planned to develop further accommodation, but a challenge is availability of land and property and to prepare a costed business case to bid for funding.
- 3.7 Where the Council undertakes direct intervention in the local housing market, as described above, this demands significant resources and is subject to pre-determined governance process which may, if not exercised flexibly, result in opportunities being missed. By establishing a wholly-owned arms-length company it may be possible to create both a longer term strategy and a more fleet-of-foot approach so that opportunities can be taken as they arise where this fit with the Council's aims. The current approach is necessarily reactive. This can lead to the creation of a mixed portfolio of housing acquisitions which are not effectively aligned to objectives, are difficult to manage and do not represent value for money.

4. Local Authority Development Companies

- 4.1 Under the Local Government Act 2003, s95, local authorities can set up companies that can make a profit in any area of their competencies. Under the Localism Act 2011, s1-11, powers for local authorities to set up companies have been extended under the General Power of Competence.

- 4.2 Local authorities have taken advantage of this legislation to set up Development Companies as a means of increasing housing supply and regenerating sites while making a return on the funds invested. Often the funds are in the form of PWLB loans which are extended to the Development Company which pays a premium in return to cover the Council's borrowing costs and deliver an income stream.
- 4.3 A report by the Royal Town Planning Institute (RTPI) published in December 2017 found that over 125 local authorities had set up companies that are able to deliver housing¹. Research by the Municipal Journal suggest that there are now over 170 Development Companies in existence², while a follow-up paper by RTPI suggested that 78% of local authorities had established such a company by the end of 2019.³
- 4.4 Alternative models also exist, such as direct provision through a Housing Revenue Account (HRA), joint ventures with developers and social housing providers and partnerships of various types. The above research also clearly showed that Councils have a wide variety of reasons for entering into the housing market and adopt different models for delivering their aims. It will be an important part of the study commissioned by the Communities Committee to establish the Council's objectives in order to understand the best delivery vehicle to adopt.
- 4.5 In 2017 the Smith Institute looked into the reasons why local authorities have established Local Housing Companies (LHCs) and presented the following results⁴:

- Our findings suggest that LHCs offer councils a "triple dividend" in the form of much needed extra housing, a greater stewardship role in place-shaping and a financial return to the council.
- There are now probably as many as 150 LHCs in England, most formed in the past few years. On the current trend, this could increase to 200 by 2020 – covering just over half of all councils in England.
- LHCs have been established by all kinds of councils, across the size spectrum, including, in some cases, with participation by counties. The largest concentrations are in London and the South East.
- Most LHCs have modest ambitions to build (averaging around 50 units a year), although there are larger housing companies in urban areas with major build programmes.
- Collectively LHCs could increase completions over time from 2,000 homes a year to 10,000-15,000 homes each year by 2022, with perhaps a quarter of the total in London.
- We estimate that around 30%-40% of new LHC homes are likely to be 'affordable', with a minority at the equivalent of social rented levels.
- Councils are attracted to LHCs because they want more control and influence, and greater freedoms and flexibilities (especially over rents, borrowing and the Right to Buy).
- LHCs can generate income and cross-subsidise new private affordable and sub-market housing at social rents

¹ <https://www.rtpi.org.uk/media/1891/localauthoritydirectprovisionofhousing2017.pdf>

² <https://www.themj.co.uk/Are-LA-housing-companies-the-way-forward/213900>

³ <https://www.rtpi.org.uk/media/2043/local-authority-direct-delivery-of-housing-ii-continuation-research-full-report.pdf>

⁴ [Delivering the renaissance in council-built homes: the rise of local housing companies | Smith Institute \(smith-institute.org.uk\)](https://www.smithinstitute.org.uk/delivering-the-renaissance-in-council-built-homes-the-rise-of-local-housing-companies)

4.6 As to whether Development Companies are effective, there is limited research to date and, as indicated above, this depends to a considerable extent on the objectives set for the company. A paper on Community-Led Housing by the housing sector innovation agency HACT argues that a local authority development company can work effectively to deliver community-led housing if established with this as one of its key objectives⁵. It can be a major driver for housing expansion in its area of operation. Palace Green Homes, set up in 2016 by East Cambridgeshire District Council and responsible for a number of small local housing developments with user engagement, is cited as a good example.

4.7 Further typical examples are shown in the following box:

The Great Yarmouth Development Company Limited. This is a joint venture between Norfolk County Council and Great Yarmouth Borough Council. The company built Royal Britannia Terrace, a development of nineteen houses in Great Yarmouth, three of which are social homes. Money invested in the project by The Great Yarmouth Development Company was repaid through house sales and reinvested in a fresh regeneration project.

Broxbourne Borough Council established Badger BC as a wholly owned company to identify small scale sites for development, including purchasing existing properties to make available for letting. In 2017 and 2018, 5 three-bedroomed houses were developed and became available for rent while a further 4 two-bedroomed flats were constructed. The company has subsequently sought planning permission for a development of 24 two bedroomed flats on the site of Wolsey Hall which will be available for market rent.

4.8 There have also been some well-publicised failures. In particular, Croydon Borough Council's wholly-owned housing company Brick by Brick has received much press attention for a failure to deliver new homes despite considerable loan capital provided by the Council. A number of other Councils are reviewing their arrangements, including Nottingham City Homes following a wider report on the Council's use of wholly owned companies, and Haringey Borough Council which is considering bringing its Arms-Length Management Organisations (ALMO) back in house.

4.9 In determining whether a Development Company would be a suitable vehicle, the Council will need to consider a range of matters, not only in relation to whether this would be an effective delivery mechanism but also in regard to the type of structure to be used and the governance arrangements. CLH identifies the following preliminary considerations:

- the background law which will influence the Council's decision making, including:
 - the Council's powers and duties – in relation to both setting up and participating in the company – and the wider local government law that the Council will need to act within;
 - the different legal structures that are available, how they differ and the impact each would have on the governance arrangements and the relationship between the Council and the company;
 - exactly how procurement rules will apply and how to mitigate risk where there is uncertainty in any respect;

⁵ <https://clhtoolkit.org/planning/delivering-clh-through-local-authority-development-companies>

- the flow of money and the transfer of land which requires analysis for each initiative from a State Aid perspective;
- regulatory compliance, including compliance with any requirements of MHCLG and Homes England and the Regulator of Social Housing;
- the tax implications of different structural models: particularly Stamp Duty Land Tax (SDLT), VAT and Corporation Tax; planning and environmental law matters;
- any consultation the council would need to undertake before proceeding;
- the funding and finance arrangements to be put in place;
- the governance of the company:
 - the relationship the Council will have with the company and how it will manage its affairs. Although the legal mechanics of forming a company are relatively straightforward, it is important to ensure a good understanding of the implications of doing so. Duties of directors to the company and addressing how the council wear different “hats” are pertinent;
 - the council’s shareholder role and the mechanics of a share company (general meetings and shareholder decisions - reserved matters - and the mechanics of decision making);
 - governance and operational arrangements – the Board of Directors, any chair, how they are appointed and removed, their decision making, and a description of Directors’ duties;
 - future-proofing the company or group structure – how future relationships are managed

4.10 Consideration of these matters requires technical expertise which is not currently available with the Council. Therefore it is recommended that a specialist resource be identified as part of the wider consideration of the Council’s housing development objectives set out in the Communities Committee report and to supplement the funding agreed by the Communities Committee with up to £10,000 drawn from the Income Generation Fund.

5. Preferred Option

5.1 Under the Communities Committee report, the Council is looking to appoint a housing specialist adviser/consultancy to undertake a wide ranging and thorough review to identify how the provision of housing in Worcester can be increased to meet increasing needs. This report proposes that the remit of the review be extended to include consideration of a Development Company as a suitable vehicle to further the Council’s aims.

6. Alternative Options Considered

6.1 To not include this additional research in the scope of the project. The Council will receive a full report on the options available to deliver the aims set out in the Community Committee report. However, the Council would benefit from an understanding of whether Development Companies have proved successful vehicle in helping to deliver the type, range and level of housing desired and, if so, whether establishing one would be a suitable approach for this Council.

7. Implications

7.1 Financial and Budgetary Implications

The Communities Committee has approved spend of up to £30,000 from the Affordable Housing Reserve. This report seeks the allocation of up to £10,000 from the Income Generation Reserve to supplement the project budget. There is an expected balance of £203,299 on the fund at 31 March 2021, of which £70,999 is uncommitted.

7.2 Legal and Governance Implications

The report on Council Led Housing to the Communities Committee of 27 January 2021 delegated authority to the Corporate Director (Homes and Communities) in consultation with the Chair and Vice Chair the Committee to agree a specification document as part of procuring the required and procuring and appointing a suitable contractor to deliver this work.

The recommendations in this report, if approved, will need to be included in the scope of the review in consultation with the Chair and Vice Chair of Communities Committee.

The output of the proposed review will be a report to Communities Committee. The Income Generation Sub-committee will contribute its observations to the Communities Committee when it considers the report. Arrangements for this process will be confirmed.

7.3 Risk Implications

The specific risks in relation to Housing Development Companies will be considered as part of the review.

There is a risk that the work will not provide the Council with the required matters for consideration to develop the appropriate policy. The project scope will ensure that this risk is mitigated.

7.4 Corporate/Policy Implications

The Council's 'City Plan' under the 'Stronger and Connected Communities' theme, commits to having a wide mixture of good quality housing provision to suit the full range of needs.

Under the Commercial Strategy the Council is seeking to develop a range of investment in properties that will generate an income stream. Housing properties have the potential to do this through an appropriate delivery vehicle while enabling the delivery of affordable housing through a mixed tenure approach.

7.5 Equality Implications

There are no direct implications arising from this report. Future reports on the type and tenure of any housing development proposed will include consideration of equalities issues.

7.6 Human Resources Implications

There are no human resource implications associated with this report.

7.7 Health and Safety Implications

There are no health & safety implications associated with this report.

7.8 Social, Environmental and Economic Implications

This work approved by the Communities Committee will directly contribute to the development of a Homes and Communities Strategy for the Council underpinning which will be stronger communities, better places to live and access and choice to high quality housing.

The additional element proposed in this report will further address the opportunities that the Council will have to provide suitable housing of all types within the city and its extended planning area.

The report itself does not have any social, environmental and economic implications as a project budget has been identified and a specification will be agreed. Any likely implications will be highlighted in the report and mitigation measures will be proposed.

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Background Papers: Understanding Our Options for Council-led Housing Development, report to Communities Committee 27 January 2021