

**BURCOT LANE DEVELOPMENT - next steps, finance and operating model**

Relevant Portfolio Holder	Councillor Shirley Webb
Portfolio Holder Consulted	Yes
Relevant Head of Service	Sue Hanley – Deputy Chief Executive
Ward(s) Affected	All
Ward Councillor(s) Consulted	
Non-Key Decision	
This report contains exempt information as defined in Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972, as amended	

**1. SUMMARY OF PROPOSALS**

This report follows the Cabinet reports in September 2017 and October 2018 - it outlines progress made since then on the Burcot Lane housing development. It considers current funding issues and an operating model which includes disposal, retention and management of the properties once construction is completed.

**2. RECOMMENDATIONS**

**Cabinet is asked to RESOLVE that:**

- 2.1 Officers develop a business case for the formation of a Housing Company to hold the market rent units for the Council's consideration**
- 2.2 The development model is progressed on the presumption that the affordable housing units will be transferred to an existing registered provider.**

**3. KEY ISSUES**

**Background Information**

- 3.1 At the Cabinet meeting on 6 September 2017 members considered the options available to the Council regarding the 1.47 ha (3.64 acres) development site at Burcot Lane being the former Council House and Burcot Hostel site.**
- 3.2 Previously members have considered disposal through an open market sale thereby securing a capital receipt (option 1), developing the site in partnership with a Housing Provider (option 2), or the retention of the site whereby its redevelopment might achieve a medium/long term revenue stream for the council (option 3). Each of these options will deliver housing, but the number of affordable homes delivered, financial risk/returns and level of council involvement varies considerably across the three options. However, the successful outcome of a bid to Homes England Local Authority Accelerated Construction Fund which resulted in an agreement to support the scheme financially reduced the level of risk in**

option 3 and this is the option that the Council has pursued since then. Option 1 was discounted as it focusses heavily on home ownership and the council recognises the need to increase the number of rental options available locally to try and rebalance the local market in Bromsgrove. Option 2, working in partnership with a registered provider was discounted on the basis that such an arrangement could not provide the council with a sufficient enough and long term revenue stream. The council decided that option 3 would enable it to achieve its preferred outcomes at Burcot Lane, which were to provide policy-compliant housing for local residents that is affordable for them, and to create a sufficient, long term revenue stream for the authority. As part of option 3, the council recognised that it would need to explore the position in terms of forming a housing company to achieve its aims at Burcot Lane.

- 3.3 The application to Homes England for support from the Accelerated Construction Fund was subsequently confirmed and a Funding Agreement between Homes England and Bromsgrove District Council was signed in February 2020. Further detail about the value of the grant is contained in Appendix 1.
- 3.4 Officers have worked through a development model which would enable the Council to meet the funding requirements whilst continuing to deliver against the Council's wider strategic purposes. Potential volatility in the housing market as a result of Covid-19 increases the financial risks associated with the development model.
- 3.5 Council should note that in the light of the Covid-19 outbreak the milestones under the Funding Agreement with Homes England have been revised. Officers will continue to work with Homes England to mitigate the risks associated with the milestones as far as possible.

**Disposal options**

- 3.6 The current disposal model envisages 6 units which will be sold at market value, 18 units of affordable housing and 37 units which will be offered at market rent. The 18 affordable housing units are required by planning and this number cannot change. The balance between the units for sale and units for rent could change if the economic climate necessitates.
- 3.7 Officers have sought external advice about the legal implications of different holding options for the affordable and market rent units. This advice has been included at the end of this report in Appendix 1.
- 3.8 Taking the market rent units first, these units could be sold or leased to a third party, retained by the Council, or transferred to a Council owned company. If the units were sold to a third party the Council would lose all control and any rental income and if leased would receive a reduced income. If they were retained by the Council, they would be required to be let by way of a secure tenancy under the Housing Act 1985 (known as a Lifetime tenancy). This would require the rents to be set at social rent levels following the Rent Standard 2020 and

therefore would not be open market private rented properties. They will also be subject to right to buy. Units held by a housing company would not be subject to secure tenancies or right to buy, ensuring that the Council is able through the development make market rent units available to the community in the longer term. The Company could also reinvest rental income or return profits to the Council.

- 3.9 The affordable housing element of the scheme is being developed as a requirement of planning and needs to be held in a way that meets the planning requirements relating to affordable housing. A key part of this is that the housing must be held by a registered provider (RP).
- 3.10 These units could be retained by the Council, transferred to a RP, or transferred to a Council owned company which would itself have to register as an RP. If the Council retained the units it would have to register as an RP (although with only 18 units it would not have to set up a HRA). However, the Council has no recent experience or infrastructure for providing housing and setting up such infrastructure for just 18 units is unlikely to be cost effective.
- 3.11 Registering a Council owned housing company which also holds the market rent units as a RP would add an administrative burden to that company and compromise its ability to retain the market rented units in the longer term, as they would then become susceptible to right to buy. Establishing a separate company for the 18 units is unlikely to be cost effective.
- 3.12 Given the above (as set out in more detail in the external advice), the most appropriate way of dealing with the affordable housing units would appear to be to transfer to an existing Registered Provider. The Council needs to obtain best value for these units and officers will obtain valuations of these properties (subject to the affordable housing restrictions on them). Further information on this is contained in Appendix 1.

### **Financial Implications**

- 3.13 Covid-19 has created an uncertain financial climate and officers will revisit the development model when construction tender figures have been received on 13 August 2020 and evaluated between the 14 August to 21 August 2020 and going forwards in the light of any changes to the housing market.
- 3.14 The business case for the proposed Housing Company will consider the financial implications of this model. Legislation requires that any local authority trading company is charged by the Council for all administrative and other services that it provides to it. If the business case does not show that the Housing Company is financially viable it will not be possible to proceed and other options for the disposal of the market rent units will need to be considered.

### **Legal Implications**

- 3.15 The Council is required to comply with its overarching Best Value obligations in terms of income, capital receipt and social benefit. This Best Value duty must be factored into decisions regarding disposal of any of the units.
- 3.16 The terms of transfer of the affordable housing units to an RP must take full account of the Best Value obligation. Private sale units must also be sold at best market rates. If the market rent units are transferred to a local authority trading company the company financing and the transfer would need to be structured so that the company gives full consideration for the units.
- 3.17 The Local Government (Best Value Authorities)(Power to Trade)(England) Order 2009 provides that that the Council may not undertake commercial activity through a local authority trading company without first considering and approving a comprehensive business case for the company and its proposed activity. The business case must consider the objectives of the business, the investment and other resources required to achieve those objectives, any risks the business might face and how significant these risks are, and the expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve. Moreover, the Order provides that the Council must recover from the company the costs of any accommodation, goods, services, staff or any other thing that it supplies to the company in the course of its business. The business case must therefore address the way in which the Council will provide resources to the company and how the company will pay for these.
- 3.18 The establishment and operation of local authority trading companies also requires consideration of the State Aid regime and the *Teckal* exemption, which allows for the procurement of goods and services between the local authority and the company without external competition. These matters will need to be considered fully by the Council when it considers the business case.
- 3.19 The Council cannot prejudge the outcome of its consideration of the business case so it cannot at this stage make any decision to establish a housing company.

**Service / Operational Implications**

- 3.20 These are outlined in detail in the 2017 and 2018 reports. Key ones include establishing the best way to provide ongoing support and housing management to future tenants and dovetailing development works in with BDHT's regeneration activity in the area.

**Customer / Equalities and Diversity Implications**

- 3.21 Increasing the supply of affordable housing in the district helps households on low incomes by providing them with good quality and secure accommodation options. Improvement in the market rent sector will help rebalance the private

rented sector in the district.

**4. RISK MANAGEMENT**

- 4.1 Risks remain around the revised milestones as contained in the appendices and in the light of the economic outfall from Covid-19. Officers will continue to monitor and mitigate these risks and the issues raised by Covid-19 will be considered in more detail by the housing company business case.

**5. APPENDICES**

Appendix 1 - External legal advice, Homes England milestones, grant detail and further information on disposal options (information exempt)

**6. BACKGROUND PAPERS**

Report to Cabinet Site Disposal Burcot Lane, Bromsgrove 6<sup>th</sup> September 2017 and 31<sup>st</sup> October 2018.

**7. KEY**

N/A

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