

BURCOT LANE HOUSING DEVELOPMENT MANAGEMENT OPTIONS - PRIVATE RENTED PROPERTIES

Relevant Portfolio Holder	Councillor Hotham Councillor Webb
Portfolio Holder Consulted	Yes
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Wards Affected	All
Ward Councillor(s) consulted	N/A
Relevant Strategic Purpose(s)	Work and financial independence Affordable and sustainable homes
Key Decision?	
This report contains exempt information as defined in Paragraph(s) 3 of Part I of Schedule 12A to the Local Government Act 1972, as amended	
If you have any questions about this report, please contact the report author in advance of the meeting.	

1. SUMMARY

1.1 This report follows the below reports in respect of the development of the site at Burcot Lane where the former Council House and Burcot Hostel were situated:

- Council Report 14.07.2021 – *Disposal of Affordable Housing Units at Burcot Lane;*
- Council Report 20.01.2021 – *Disposal of Affordable Housing;*
- Cabinet Report 06.08.2020 – *Next Steps, Finance and Operating Model;*
- Cabinet Report 31.10.2018 – *Burcot Lane Report;*
- Council Report 06.09.2017 – *Site Disposal Burcot Lane, Bromsgrove.*

1.2 This report provides an update on the development of the Burcot Lane site and the current status of the matter, and includes the recommendations detailed below to affirm the progress of the matter to date and effect next steps.

1.3 The report sets out the Council’s options for the management of the 37 private rented units of the Burcot Lane development in consideration of the potential financial returns to the Council, and the Council’s overarching housing strategy. The report:

- (i) sets out the strategic housing context;

- (ii) sets out and evaluates the options for the ownership / management of the 37 private rent units and management of the communal space on the site;
- (iii) includes a financial analysis of the options;
- (iv) sets out the recommended option and further considerations.

2. RECOMMENDATIONS

2.1 Cabinet is recommended to resolve:

- (a) That the progress of the matter to date be noted and affirmed;
- (b) That a housing company limited by shares wholly owned by the Council is established;
- (c) That the 37 private rented units of the Burcot Lane development are long-leased from the Council to the housing company;
- (d) That by way of a formal loan agreement between the Council and the housing company and in compliance with the requirements of subsidy control (formerly State aid) the Council provide the housing company initial operating capital to the sum of £50,000;
- (e) To note that officers are continuing to work on provisions for the internal and external common areas of the 37 private rent properties and in respect of the wider Burcot Lane development. A managing agent will be required to undertake this role.

3. KEY ISSUES

Background

3.1 On 31 October 2018, Cabinet resolved:

- (a) that the indicative plans and projected financial outcomes for the development project be approved and that provided the minimum financial projections are maintained, authority be delegated to the Section 151 Officer to agree the final

details when these have been signed off by external advisors when appointed, and after consultation with the Group Leaders;

- (b) that agreement in principle is given to establishing a Housing Company to manage retained housing stock subject to the business case for the company being brought to Cabinet for approval;
- (c) that Officers proceed to implement the pre-development steps on the site, to include planning and building control applications, demolition of the existing building and the appointment of a Project Development Manager;
- (d) that further work be carried out to explore the options available to the housing company to allow it to act as a letting agent; and
- (e) that the housing company's overarching principle be to provide rental accommodation that is affordable for local people.

3.2 Subsequent to the meeting of 18 October 2018 the Council approved an increase in the Capital Programme of £8.072m to fund the associated costs of the demolition and development of the Burcot Lane site. Although works were originally going to be funded via a loan of £7.072m from the Public Works Loans Board they were in fact funded through internal working capital. An additional £1m was funded from the grant allocation. The allocation of the 3 year increase in the Capital Programme was as follows:

- 2018/19 £1.611m
- 2019/20 £2.065m
- 2020/21 £4.396m

3.3 Officers obtained advice from external solicitors as to the corporate structure and governance arrangements for a housing company, in accordance with which, a housing company would be established in the form of company limited by shares wholly owned by the Council. The housing company would be incorporated under bespoke articles of association with the company and the Council also entering into a bespoke governance agreement to provide for and regulate the relationship between them and set out the matters to be decided by the Council in its capacity as the company's shareholder.

3.4 The model for the development of the Burcot Lane site originally preferred envisaged a mixed tenure of residential units comprising:

- six market sale units to be sold by the Council;
- a long lease for each of the thirty-seven market rental to units to be sold to the housing company, with the Council retaining the freehold;
- eighteen affordable housing units to be sold by the Council to a registered provider – Bromsgrove District Housing Trust.

3.5 Funding was secured from the Homes England Accelerated Constructions Fund (the Funding Agreement) in respect of which an agreement was entered on 20 February 2020. However, due to the Covid-19 pandemic, the various milestones under the Funding Agreement have been revised and the preferred development model and associated returns and risks have been reassessed in consideration of the prevailing economic conditions.

3.6 Officers have continued to progress the Burcot Lane development project and consider other of the Council's potential housing development schemes in view of the effects of the Covid-19 pandemic, and more recently, significant increases to interest rates and the rate of inflation.

3.7 The Burcot Lane development model has been reviewed and the financial forecasts, costs and risks reassessed as part of analysis of the project undertaken by external consultants.

Current Position

3.8 The Burcot Lane development is due to complete by the end of July 2023. The table below set out costs to date.

Scheme Costs		11,686,000
Less		
Homes England Grant		1,300,000
Green Grant		610,000
Sale of 6 Units		1,945,000
Sales of 18 Affordable units		2,100,000
Total		5,955,000
Amount to Borrow		5,731,000

3.9 Total costs for the Burcot Lane development are estimated at £11.7m. The Council has received grant funding totalling £1.91m.

3.10 To date the Council:

(i) is currently progressing transfer of the 18 units of affordable housing to Bromsgrove District Housing Trust for a total of £2.1m;

(ii) expects to sell on the private market the 6 units private sale housing for circa £2m.

3.11 This leaves the Council with 37 units of housing for private rent comprising:

- 27 one bedroom flats;
- 4 two bedroom flats;
- 6 houses (two or three bedroom).

There is £5.731m of debt associated with these 37 units. Council tax receipts on the completed scheme are estimated at £95k per annum, of which the Council would receive directly £12k per annum.

3.12 Cabinet is requested to note that the Council also owns land at Windsor Street, School Drive and the presently closed Churchfield Car Park all of which could be used for the delivery of housing. These sites have been evaluated as part of the Bromsgrove 2040 Plan. However, it is unlikely that these sites will be delivered within the next 3-4 years.

The Strategic Housing Context

3.13 As part of their strategic leadership and place shaping activities, local authorities should be addressing the housing needs of all residents across all housing tenures. The below table shows the housing tenure breakdown within the district. This shows that owner occupation within the district is significantly higher than the regional and national averages impacting on both the amount of social housing and private rented housing.

	Owned	Social Rented	Private Rented	Owned (%)	Social Rented (%)	Private Rented (%)
Bromsgrove	32,452	4,417	4,395	78.7	10.7	10.7

West Midlands	1,545,293	443,332	440,869	63.6	18.2	18.1
England	14,605,016	4,005,663	4,825,406	62.3	17.1	20.6

- 3.14 It is important for the Council to work with partners to balance the current housing market. To increase the supply of affordable housing the Council works with Registered Providers to develop and procure affordable housing through their own development plans and affordable housing secured through planning policy. There is generally limited scope for the Council to increase properties in the private rented sector and as such the properties at Burcot Lane provide an important opportunity for the Council to bring some balance to the local housing market.
- 3.15 An emerging trend in the private rented sector is the increase in the number of tenancies that are being ended as landlords leave the sector or have to significantly increase rent due to increases in mortgage costs. This has resulted in limiting access to the private rented sector and increasing approaches for homelessness assistance. In the period September 2021 to September 2022 approaches for homelessness assistance have risen by 62% with the reason for homelessness being reported as the ending of an assured shorthold tenancy.
- 3.16 The Council is a member of the *Worcestershire Strategic Housing Partnership*, the plan of which was agreed 2017 with the strategy being reviewed and updated this summer (2023).
- 3.12 The vision of the Worcestershire Strategic Housing Partnership plan is:
to create the right home environment for Worcestershire residents that is essential to their health, wealth and wellbeing throughout life.
- 3.13 The headline issues affecting Worcestershire are:
- welfare reform and changing legislation;
 - inadequate supply of housing including affordable housing;
 - supporting vulnerable groups and preventing homelessness;
 - poor condition and affordability in the private rented sector;
 - housing and Health.

3.14 The Burcot Lane development meets the original ideals and the priorities of the strategy by maximising the delivery of good quality housing of the right type and tenure by coordinating the activities of housing developers, providers and support agencies to meet existing and future housing need in a sustainable way. The Burcot Lane development has:

- built 61 new properties;
- leveraged significant grant funding to a high specification, including the Green Credentials, with a focus on the needs of the Bromsgrove district.
- focussed on enhancing the supply of properties available in the private rented sector;
- built properties designed and specified for rental in the private rented sector (i.e., the properties include white goods and floorings) which goes beyond what is routinely provided in social housing.

3.15 The Council has a number of options for bringing the 37 private rent units into use as detailed below.

Options for the Ownership / Management of the 37 Private Rent Units

3.16 The Council obtained external legal advice from Trowers and Hamlins Solicitors on options for ownership/ management of the 37 units in May 2021 as to different delivery options. This was precipitated by increased interest costs in the last year. The advice is set out at Appendix A. The sections below summarise this advice:

Option 1: Hold in the Council

3.17 With this option:

- the Council can hold up to 199 units, without having to re-open its HRA;
- the Council would be letting secure tenancies under the Housing Act 1985. The Council is not able to grant assured tenancies (shorthold or otherwise);
- Right To Buy (RTB) would apply once the requisite qualifying period (3 years in any public sector tenancy) has been met by the tenant;
- Social Rents would need to be charged (50% of Open Market Rents).

Option 2: Establish a Housing Company

3.18 With this option the housing company could buy or lease the properties from the Council and:

- the company as a separate legal entity would be able to grant assured shorthold tenancies on market level rents which may provide a source of income to the Council and the properties would not be subject to statutory RTB.
- the company would be wholly owned by the Council in its capacity as the company's shareholder;
- the company would need a board of directors, and governance arrangements would need to provide for the Council's exercise of its shareholder role;
- the company would need financial support – start up capital from the Council;
- the company would contract with third party managing agents who manage the properties and common areas on a day-to-day basis;
- there would be set up costs and on-going costs for the company.

Option 3: Arrangement with a Registered Provider

3.19 With this option:

- the Council could consider either a sale or lease to a Registered Provider. A sale would deprive the Council of the future benefit of the property but would generate a capital receipt and nomination rights could also be secured;
- a shorter-term lease arrangement with a not-for profit Registered Provider would mean the Registered Provider was in a position to let and manage the properties in accordance with its own housing management policies – subject to any specific agreement entered into between the Council and the Registered Provider;
- the statutory RTB would not arise as the landlord would be the Registered Provider even though the freehold was retained by the Council.

However, see below at paragraph 3.37.

Option 4: Lease Arrangement with Redditch Council

3.20 This is similar to Option 3. The Council could consider granting a lease to Redditch Borough Council (RBC). With this option:

- RTB does not arise unless the landlord owns the freehold or has an interest sufficient to grant a lease in pursuance of the relevant part of the Housing Act 1985:
 - where the dwelling-house is a house, a term exceeding 21 years, or

- where the dwelling-house is a flat, a term of not less than 50 years, commencing, in either case, with the date on which the tenant's notice claiming to exercise the right to buy is served.
- As such, provided that RBC's leasehold term does not meet these requirements RTB would not arise.

Option 5: Dispose of the Properties on the Open Market

3.21 With this option:

- The Council can seek to maximize the capital value of the properties by disposing of them to the highest bidder through a market (competitive) sale;
- The freehold of the block of 27 flats which are included in the 37 private rent units would also need to be sold to remove any ongoing liability on the Council as the freeholder.

Financial Evaluation of Options

3.22 There are 5 options to evaluate financially. To manage the properties, either through a company set up for the purpose or through a Registered Provider or via the Council, a number of functions need to be delivered. Detailed financial analysis is set out in Appendix B.

Option 1: Hold in the Council

3.23 As the Council will have under 200 housing units the Council can hold the 37 units without having an HRA, the properties would have to be let at social rent levels. However, over time, tenants may be able to purchase the properties which would reduce the number available for utilisation in the private rented sector which is a key aim of the Council and the *Worcestershire Strategic Housing Partnership*, and would impact on the financial viability of the remaining units.

3.24 For completeness, the following assumptions summarise the background for this option for the Council. These are:

- Income would need to be at social rent levels, not private rent levels, thereby reducing the financial return to the Council;
- As the Council does not currently have the facility to manage these units a managing agent would need to be engaged;

- There will be the cost of maintenance to the units and common area;
- There is the requirement to repay the capital build costs over a period of time (capital and interest);
- It is assumed that the contract management of the managing agent contract would be managed by the Council's strategic housing team.

3.25 The financial analysis indicates that the Council holding the 37 units is not a viable option.

Option 2: Establish a Housing Company

3.26 The major differences between the Council managing the stock in-house and managing the stock through a 100% owned housing company are the overheads of the Company and the transfer of the assets to the Company and the tenure and rent levels able to be used.

3.27 As the Council does not presently have a 'housing company' it would need to set up the company and put in place arrangements for its governance. Appendix C sets out the tasks that the company would need to undertake over and above just managing the 37 private rent units. Additionally, it is unlikely that the Council has the in-house resource to deliver the functions of a company which as such will need to be brought in.

3.28 The major differences between a housing company and the Council holding the 37 private rent units are:

- The company could let the properties at private rent levels (rather than social rent levels);
- Capital charges – the transfer of the 37 units to a housing company would need to be compliant with 'subsidy control' requirements (formerly (State aid));
- The Council has the option to lease or sell the 37 units to the company;
- Other costs will be similar to that incurred under Option 1.

3.29 Financial analysis shows that establishing and utilising a company may provide a source of income to the Council.

Option 3: Arrangement with a Registered Provider

3.30 An arrangement with a Registered Provider could comprise a leasing arrangement or a straight sale of the 37 units (see further Option 5 below). Financial analysis shows that leasing charges in the range £171,00 - £286,00 taken against estimated income would

lead to surpluses of £109,600 to £120,160 at the base scenario with 10% management charges. However, an arrangement with a Registered Provider would be subject to negotiation with the Registered Provider. The 37 units are of a very high specification and the Burcot Lane development is situated in a good location so this Option 3 could be an attractive solution. Financial analysis further shows that while the sale of the 37 private rent units to a Registered Provider is not viable due to capital costs, a long-lease arrangement might be acceptable to both the Council and a Registered Provider. However, see further below at paragraph 3.37.

Option 4: Lease Arrangement with Redditch Council

- 3.31 This arrangement would be similar to that of Option 3 but would involve different rent levels and types of tenancy.

Option 5 – Disposal on the Open Market

- 3.32 An outright sale of the 37 private rent units on the open market is a further option for consideration. The Council need to ensure that such a sale would cover its incurred capital costs of £5,731,000, and consideration would need to be given to the transfer / ownership of the common areas.

Options Summary

- 3.33 In considering the results of the financial analysis at Appendix B and the Council's housing strategy in light of the *Worcestershire Strategic Housing Partnership* plan, the Options detailed above can be summarised as follows:

Option 1: Hold in the Council

- 3.34 Financially, at Social Rent levels, Option 1 is not viable. The limitations of this due to the restrictions on the type of tenancies on which the Council could let the 37 units would mean they would not be available for use in the private rented market as originally intended.

Option 2: Establish a Housing Company

- 3.35 Selling or leasing the 37 units to a company established and owned by the Council would provide the most flexibility to the Council in terms of how the units were let and managed. The properties would remain in the private rented sector as originally intended and may provide a source of income to the Council. Given the current interest rates and the

prevailing economic conditions, the company's purchase of the properties from the Council is unviable and as such the Council would long-lease the properties to the company. However, the company would not have the internal resources to manage and operate the properties and common areas on a day to day basis and as such would need to procure management agent(s) for the purpose. Leasing rates in the range of 3-5% are considered viable and would ensure that the Council is covering its existing debt provided that the terms on which the company was able to engage a managing agent are competitive. Appendix D details further analysis which considers the 'roll-in' to the rent of the costs of utilities provision.

Option 3: Arrangement with a Registered Provider

- 3.36 Like a transfer to a company, this option ensures that the 37 units would remain within the private rented sector as intended. With an outright sale of the units to a Registered Provider the Council would however lose control over the properties, and there would be more flexibility over assignment rights under a lease arrangement. A Registered Provider would have the resource and experience to manage and operate the properties, the 37 of which would be marginal to the volume of Registered Provider's overall housing stock. Either the sale or the lease of the 37 units to a Registered Provider would be subject to negotiations and agreement between the Council and the Registered Provider. The preferred option would be for the Council to enter a lease arrangement with a Registered Provider rather than the outright sale of the properties.
- 3.37 Initial discussions have taken place with a third party Registered Provider to ascertain the market for either leasing the units or acting as a managing agent. However, it is understood that many Registered Providers do not presently manage private rental properties and reservations would include, concerns over the mixed tenure of the properties comprising the Burcot Lane development, current interest rates and economic conditions, and changes in rental market. In view of these discussions, officers consider that a managing agent will be required to manage the 37 units and the communal areas of the site more generally.

Option 4: Lease Arrangement with Redditch Council

- 3.38 In its capacity as a housing authority RBC will be required to let the 37 units at market rent levels which would impact on the financial returns to the Council. Redditch Borough Council has a HRA and the in-house resource to operate and manage the properties on

a day-to-day basis, and at 37 the number of properties would be marginal to the volume of RBC's housing stock. However, another local authority being responsible for properties owned by the Council and the arrangements between them would require careful consideration. Financially, costs under this option would be the same as those under Option 3.

Option 5 – Disposal on the Open Market

- 3.39 The Council has a capital cost to cover of £5,731,000 but an outright sale of the 37 private rent units would need to consider provision for the transfer, management and upkeep of the common areas. Present sale estimates are in the region of £5.8m. The most likely avenue for an outright sale would be an arrangement with a Registered Provider, however, as detailed at paragraph 3.37 above, this option is considered unlikely.
- 3.40 There is the requirement to sell the freehold of the block of flats comprising 27 of the private rent units to a single vendor otherwise the Council will remain responsible for the maintenance, health & safety, and other regulatory compliance requirements of the internal and external common areas of the block.
- 3.41 An outright sale of the 37 units would provide the Council with a capital receipt, but the loss of potential income generated through the rental of the properties, and the Council would also lose control over the properties and their use.

The Recommended Option – Establishing a Housing Company

- 3.42 In the likelihood that Option 3 is no longer viable, the recommended option for the management and operation of the 37 private rent units is via a long-lease of the properties to a housing company wholly owned and established by the Council for the purpose. As set out above, under such an arrangement the properties would remain available to let in the private rental sector as originally intended, would remain assets over which the Council maintained ultimate control through its retention of the freehold, and may generate income for the Council. A housing company would also provide flexibility as to tenancies, and potentially could also be used in the facilitation of future Council housing projects included in the Bromsgrove 2040 Vision such as Windsor Street, School Drive and Churchfield Car Park. The Council would also retain an option to sell the freehold of the properties to the company at a future date were economic conditions favourable.

- 3.43 Establishing a housing company to which the Council would long-lease the 37 private rent units requires the consideration and effecting of a number of matters which as yet include those detailed below.
3. 44 A Board Meeting would need to be held within two days of the Council decision if the decision is taken to set up a Housing Company.

The Company Aims and Objectives

- To bring high quality housing to Bromsgrove to balance the housing market in the district which has a deficit in the private rented sector when compared to national indicators.
- The provision of high quality energy efficient housing available in the private rented sector (which enables the company to be utilised for developments in the wider Bromsgrove 2040 Vision).
- The company has been set up to meet the Councils objective of “finding Somewhere to live” and as such will target and prioritise residents of Bromsgrove but not exclusively;
- The Companies overall aspiration is to bring high quality housing to Bromsgrove to balance the housing market in the district which has a deficit in the Private Rental Sector when compared to national indicators.

The Company’s Corporate Form

- The company will be a private company limited by shares incorporated under the Companies Act 2006;
- The Council will be the company’s sole owner and shareholder;
- Once incorporated the company will be a legal entity in its own right and distinct from the Council.

The Company’s Governance Arrangements

- Bespoke Articles of Association;
- Bespoke Shareholders Agreement;
- The Council to exercise its ‘shareholder function’ via a Shareholder Committee established as a sub-committee of the Cabinet.
- The Shareholder Agreement will include ‘reserved matters’ for determination by the Shareholder Committee;

- The Shareholder Agreement will provide for the company's reporting to the Shareholder Committee and its overview of the company, and for the Shareholder Committee's reporting to and scrutiny by the wider Council;
- Officers are working with external solicitors in the preparation of the Articles of Association and Shareholder Agreement which have been subject to consideration by the Council's Fourth Tier Working Group and are approaching finalisation;
- The company will be subject to Part V of the Local Government and Housing Act 1989 and the Local Authorities (Companies) Order 1995.

The Company's Board

- The Directors comprising the Board are responsible for the day-to-day management of the company;
- The Directors owe fiduciary, common law and statutory duties to the company and thereunder must always act in the best interests of the company;
- The Board to comprise the Deputy 151 Officer, a Director of Housing/ Director of Regeneration, and up to 2 external, independent non-executive directors with sector expertise and experience;
- The Director of Housing Services will be the nominal Chief Executive of the Company;
- The Board to meet monthly.

Financing and Resourcing the Company

- The company will require its own bank account.
- The Council will provide the company with the necessary start-up funding and working capital via a formal loan agreement;
- In its formative years at least, the company will not have any employees;
- The Council to provide 'back office' support services to the company on a full cost recovery basis via service level agreements;
- The company will need to enter into arrangements with a third party managing agent who will undertake the day-to-day operation and management of the properties (and common areas);

The Company's Allocations Policy

- The most appropriate way forward is considered to be the company having a sliding scale process that is time restricted in that priority is given to those able to afford it and with a connection to the district through residency, (with exceptions for those who have special circumstances such as Armed Forces member or those fleeing Domestic Abuse) employment or close relatives living in the district. This restriction would then fall away after a short timeframe to anyone who can afford it;
- In regard to the other options under consideration the more restrictions being placed on a sale agreement the greater the impact on value. For instance if the Council were to sell all the properties on the open market, the Council is able to decide who it sells to however by restricting who can purchase it could mean that the Council is not able to show best consideration. By limiting the numbers of potential buyers this could result in properties being unsold.

The Council's Allocations Policy

- The Council's current allocations policy is administered by BDHT;
- Depending on the allocations policy and the type of tenant, insurance assumptions could change. This is factored within the Landlord maintenance costs.

Income Assumptions

- Presently there is a lack of properties in the private rented sector;
- It is expected that the 37 private rent units will be sought after;
- A vacancy factor has been factored into the financial analysis for the establishing of the company.

Exit Strategy

- An exit strategy will be required in respect of the 37 private rent units on the termination of the long-lease of the properties from the Council to the company or on the occasion of other events;
- The exit strategy will need to be provided for in the agreement under which the Council long-leases the 37 private rent units to the company;
- The exit strategy will also need to provide for the internal and external common areas of the block of 27 flats and those of the wider Burcot Lane development.

The Company's Consideration for the Lease of the Properties

- The company will issue additional shares at a premium to the council in consideration of the Council granting it a long-lease of the 37 private rent properties.

The Long-Lease of the Properties to the Company

- An agreement will be required between the Council and the Company which provides for the long-lease of the properties;
- The agreement will need to provide for such arrangements are determined with regard to the internal and external common parts in respect of the properties;
- The agreement will need to provide for the exit strategy.

3.45 Those matters set out above under paragraph 3.43 are anticipated to be subject to further reports to Cabinet for information and / or additional resolutions.

4. Legal Implications

4.1 The legal implications of Options 1-5 are included above at section 3 and Appendix A.

4.2 The Council is unable to directly let the 37 private rent properties to the private rent market at private rent levels, and where the Council is seeking to generate income from the letting the properties, (albeit income generation may not be the dominant purpose), the Council may be considered to be acting for commercial purposes, in which case it can only act through a company.

4.3 The Council's power to establish a company is provided by the General Power of Competence under sections 1 and 4 of the Localism Act 2011 and other enabling legislation which also provide the Council with powers to provide funding, guarantees and other forms of security, and to enter into such legal agreements as may be necessary to effect the matters set out above in respect of the Options 1-5.

4.4 Any financial support to the company for privately let residential property would be caught by Sections 24 and 25, Local Government Act 1988 and require Secretary of State consent. There is a General Consent in place and Anthony Collins Solicitors consider that Consent C (General Consent, 2010) is sufficient to cover financial assistance to local housing companies by their owning authorities.

- 4.5 The Council's power to lease the 37 private rent properties to the company is provided under section 123 of the Local Government Act 1972 provided that the consideration for the disposal is the best that can reasonably be obtained.
- 4.6 As well as its general fiduciary duty in exercising its powers the Council must always have regard to its duty under section 3 of the Local Government Act 1999 to secure best value which requires consideration of all relevant social, economic and environmental matters. The Council does not have a statutory duty to develop or provide accommodation for let on the private rented market but the social, economic and environmental matters are set out in this report and inform the Council's wider housing strategy.
- 4.7 Any financial support provided by the Council to the company must satisfy the requirements of subsidy control (formerly State aid) and must otherwise be subject to a formal loan agreement between the Council and the company.
- 4.8 The above are executive functions and are for Cabinet's determination in accordance with the Council's Constitution.
- 4.9 The company will be a legal entity in its own right separate to, and distinct from, the Council.

5. Financial Implications

- 5.1 The financial implications of Options 1-5 are included above at section 3 and Appendix B.

6. Strategic Purpose Implications

Relevant Strategic Purpose

- 6.1 The Council's Strategic Purposes are included in the Council's current Corporate Plan and guide the Council's approach to budget making ensuring a focus on issues and what is most important for the district and local communities. The specific Strategic Purposes of this transaction are the delivery of affordable and sustainable homes.

Climate Change Implications

- 6.2 The green thread runs through the Council plan and the specification of the properties built fulfils this requirement. This includes risks linked to activities and actions that link to our climate.

7. Other Implications

Customer / Equalities and Diversity Implications

- 7.1 There are no direct equalities implications arising as a result of this report.

Operational Implications

- 7.2 Operational implications are addressed above and in the appendices to this report. The options are for the Council to lease the 37 private rent properties of the Burcot Lane development either to company established for the purpose and owned by the Council, or under an arrangement with a Registered Provider. The operational implications of these options are set out above and in the appendices to this report.

8. RISK MANAGEMENT

- 8.1 The financial stability and sustainability of the Council is a core underlying theme of the Council's Risk Management Strategy. In terms of this transaction there are the following specific risks:

- Timescales – there is a requirement to have a decision on the management and operation of the 37 private rent properties ahead of completion of the Burcot Lane development which is expected at the end of July 2023. To facilitate this timeframe this report intended to go to Cabinet on the 12 July 2023 and Council on 19 July 2023 should Option 2 (establishing a housing company) be the Cabinet's preferred option. Security – this transaction will assist with the progression of security arrangements for the properties subsequent to completion;
- Financial Risk – as set out in section 3 the scheme is marginal in terms of financial viability. Only the high rent, low agency costs options work in either scenario set out in section 3. If the final outcome is worse than this there will be reputational risk from a loss making;
- The Council has a limited maintenance budget for the 37 properties in the assumptions made for the options set out in this report. A maintenance budget will also need to include incidental costs such as buildings insurance. As the 37 private rent units are new, significant maintenance should not be required during the initial years, but a maintenance budget will need to include adequate provision for future maintenance costs;
- There is also a risk for the Council if the units remain empty which will be reputational and could result in future Bromsgrove 2040 developments having limited backing.

9. APPENDENCES

Appendix A – Exempt

Appendix B – Exempt

Appendix C – Exempt

Appendix D – Exempt

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