

## AFFORDABLE HOUSING COMPANY - BUSINESS CASE

Legal and Democratic Services Advisory Committee - 14 December 2017

Report of Chief Officer Communities & Business

Status For consideration

Key Decision No

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**Executive Summary:** This report and Appendix inform Members of the Business Case for the setting up by the Council of an Affordable Housing Company. As noted by this Committee at its meeting on 17<sup>th</sup> October 2017 and subsequently by Cabinet and Council, expert external advice to develop a comprehensive business case to deliver Members' ambition for the Council to set up its own affordable housing within the District has been commissioned. The resulting document is attached as an Appendix and the author will attend Committee to present the report and answer any questions.

A link to the report considered by Members as part of the decision by Council to take forward an Affordable Housing Company is at the end of the report.

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**Portfolio Holders** Cllr Anna Firth and Cllr Michelle Lowe

**Contact Officers** Lesley Bowles, Ext. 7335, Martin Goodman, Ext. 7245

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**Recommendation to Legal and Democratic Services Advisory Committee:** To note and make any comments on the Business Case.

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**Reason for recommendations:** To inform Members of the Business Case for the setting up of an Affordable Housing Company.

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### Introduction and Background

- 1 Members have expressed an ambition for the Council to develop its own affordable housing. As Members will be aware the Council transferred its social housing stock to West Kent Housing Association in 1989 and since that date has not had its own housing revenue account. This means that the Council is not in a position to provide affordable housing or act as a social landlord in its own right.
- 2 As this is not an option open to the Council, Members have expressed a desire to incorporate its own company for the purpose of providing affordable housing within the District.

- 3 At a meeting of the Legal & Democratic Services Committee on 17<sup>th</sup> October 2017, it was noted that expert external advice to develop a comprehensive business case for such a company to enable the Council to develop its own affordable housing within the District had been commissioned. Members received a report setting out the need for affordable housing within the District and giving information about different types of affordable housing.
- 4 At a meeting of Council on 21st November 2017 it was resolved that, subject to a sound business case being established, the Head of Legal and Democratic Services be authorised to incorporate a standalone Affordable Housing Company, first taking detailed advice and assistance from specialist external lawyers on the delivery model and set-up process.
- 5 Council also approved the broad governance and funding arrangements which had been recommended by the Legal and Democratic Services Advisory Committee at its October 2017 meeting.
- 6 Council also approved that, as recommended by Legal and Democratic Services Advisory Committee, delegated authority be given to the Portfolio Holders for Finance, Housing & Health and Legal and Democratic Services in consultation with the Chief Executive, Chief Finance Officer and Head of Legal and Democratic Services to settle the detailed arrangements for the establishment of the company.
- 7 Also, as recommended by the Legal and Democratic Services Advisory Committee, Council resolved that in the event that a sound business case to deliver affordable housing through an affordable housing company cannot be established Officers should report back to Members setting out further options to deliver on Members' ambition to develop its own affordable housing within the District.

### **Section 106 Funding**

- 8 A potential funding source for the Company is section 106 (S106) funding. These are financial contributions sought from developers towards the costs of providing community and social infrastructure, the need for which has arisen as a result of a new development taking place.
- 9 The Council's Affordable Housing Supplementary Planning Document (Policy SP3) includes a set of approved criteria for the spending of affordable housing planning gains (S106 funding) and amongst other things this includes provision of new affordable housing in the District normally via a Registered Provider of social housing. This would include adding to provision on development sites, new stand-alone schemes and existing property purchase.
- 10 Whilst the building costs of new affordable homes would be an appropriate and lawful use of the S106 funds, the ongoing management costs of the affordable housing company and its set-up costs would be required to be found elsewhere.

11 At the end of November 2017 the District Council had £5.37m of S106 contributions. It is noted that there will be alternative proposed uses for that money and the opportunity cost of choosing to grant money to the affordable housing company over progressing other opportunities would need to be evaluated on a case by case basis.

12 Examples of projects previously funded include:

- An energy efficiency project to bring mobile homes up to standard
- A grant programme for almshouses in need of repair
- Small amounts of the funding also support schemes that the Council has in place to prevent homelessness, such as the Council's Small is Beautiful downsizing scheme.
- SDC and Moat's bespoke 'Home of your Own' scheme to assist first time buyers who are unable to buy on the open market
- A private sector lettings scheme to encourage landlords to offer their homes for low-income households

A full list of schemes was circulated at the 17<sup>th</sup> October 2017 meeting and can be accessed via the link at the end of this report.

### **Affordable Housing Company - Business Case**

- 13 As reported to the October meeting of the Legal and Democratic Services Advisory Committee, it is Officers' view that specialist external advice would be required to enable the business case to be developed as the Council does not hold its own expertise in the provision and management of affordable housing.
- 14 The Commissioned Business Case report is attached at the Appendix. It sets out a short options appraisal, a viability analysis, and advice about governance, funding, land as well as a risk appraisal.

### **Key Implications**

#### Financial

In addition to the financial implications set out in the Business Case, the cost of specialist external advice for and the costs of setting up the company will be met from within existing budgets.

In addition to the business case, once in operation it will be necessary for the new Affordable Housing Company to pay the Council for the use of its resources (including officers) and to pay the non-executive directors. These costs would need to be met through the trading activities of the Company and must therefore be taken into account in addition to the figures set out in the Business Case.

Experience with the Council's other company suggests that these costs could be as much as £100,000 per annum.

### Legal Implications and Risk Assessment Statement

Legal implications are set out throughout this report and the Business Case.

Risk Assessment Statement. The following risks have been assessed with the knowledge and detail available to the Council at the time of writing this report. The risk assessment has been reviewed and reassessed through the business planning process and a full risk assessment is included in the Appendix.

Risks are scored from 1 (a low impact / likelihood) to 5 (a high impact / likelihood)

Risk	Likeli-hood	Impact	Total	Comments and controls
Failure to set up a company in strict compliance with legislation	1	4	4 Low	Extensive consultation with other authorities and appropriate external advice on governance arrangements
Acting ultra vires	1	2	2 Low	Every new activity via the company to consider statutory obligations
Failure to comply with taxation laws - corporation tax & VAT	2	3	6 Medium	External advice sought in relation to taxation
Possibility of challenge to state aid	1	2	2 Low	Addressed in the Business Case
Available funding to incorporate an affordable housing company	2	3	6 Medium	From existing budgets
Available expertise to incorporate an affordable housing company	3	4	12 Medium	Plans in place to procure the expert advice required to incorporate the company

Risk	Likeli-hood	Impact	Total	Comments and controls
Availability of land to enable the construction of affordable housing	4	4	16 High	The Council has limited land in its ownership for the delivery of affordable housing.
Availability of finance to invest in the construction of affordable housing	4	4	16 High	Current assumptions are limited to the use of S106 contributions to enable affordable housing development.
Inability to meet revenue costs of managing affordable housing from trading activity	4	4	16 High	Providing affordable housing is not a profit making activity and the Council does not have in-house expertise to manage housing stock. Business case addresses the cost of managing and maintaining property
Failure to deliver community benefit from the trading activities	2	2	4 Low	The provision of affordable housing in the District will address a proven need and benefit low income families seeking to live in the District.
Adverse impact on the local housing market	2	2	4 Low	Current projections of housing delivery not expected to have a detrimental impact on the local housing market

### Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

### Conclusions

Members have expressed an ambition for the Council to develop its own affordable housing through a Company, which is wholly owned by this Council.

Initial work by Officers concluded that the Council can incorporate its own affordable housing company and this would most suitably structured as a 'standalone' organisation, unrelated to the activities of Quercus 7.

The Local Housing Needs Study tell us that there is a need for more affordable homes in the District and the incorporation of a Company would provide an opportunity to access S106 contributions in order to deliver affordable housing in the District.

The attached Business Case, if found to be sound, will inform the setting up of an affordable housing company.

**Appendices**

Appendix - Business Case

**Background Papers**

Local Housing Needs Study

[www.sevenoaks.gov.uk/downloads/file/945/local\\_housing\\_needs\\_study\\_may\\_2017](http://www.sevenoaks.gov.uk/downloads/file/945/local_housing_needs_study_may_2017)

Affordable Housing report to Legal & Democratic Services Advisory Committee - 17 October 2017

<http://cds.sevenoaks.gov.uk/ieListDocuments.aspx?CId=325&MId=2169&Ver=4&J=1>

**Lesley Bowles**

**Chief Officer Communities & Business**