

## **QUERCUS HOUSING - INCREASING THE DELIVERY OF AFFORDABLE HOUSING IN THE SEVENOAKS DISTRICT**

**Council - 19 July 2022**

**Report of:** Sarah Robson, Deputy Chief Executive, Chief Officer People & Places

**Status:** For Decision

**Also considered by:**

- Housing & Health Advisory Committee - 6 June 2022
- Cabinet - 7 July 2022

**Key Decision:** No

**Executive Summary:** Reliable access to decent housing is fundamental to improving life chances and reducing dependency on wider social support systems. In Sevenoaks District there is a shortfall between the demand for and supply of new affordable homes. This report sets out a proposal.

**This report supports the Key Aim of:** the Council's Housing Strategy.

**Portfolio Holder:** Cllr. Kevin Maskell

**Contact Officer(s):** Sarah Robson, Ext 7129

**Recommendation to Housing and Health Advisory Committee:**

That recommendations (a) to (b) below be recommended to Cabinet to be recommended to Council.

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**Recommendation to Council:**

- To approve a financial facility of up to £15m to be drawn down by Quercus Housing over a 10-year period from prudential borrowing obtained by the Council and to be used for the purpose of delivering affordable housing.
- To delegate authority to the Deputy S151 Officer in consultation with the Chief Executive, to agree the terms of any borrowing to be determined at the point of draw down.

## Introduction and Background

- 1 Sevenoaks District Council is taking a pro-active approach to ensure and influence the supply of new homes in a sustainable way that protects the character of and improves the fabric and public realm of the district.
- 2 However, there remains a shortfall between the demand and supply of new affordable homes in Sevenoaks District, both in absolute terms as viability issues result in below policy delivery, and in specific specialist tenures especially in the provision of affordable rental housing, older people's housing, specialist accessible housing and social rented housing for large families.
- 3 The lack of affordable housing has contributed to a rise in homelessness. Given the Council's statutory responsibility to assist homeless residents, this is creating a greater financial burden and placing significant pressures on the Council's annual Revenue Budget. These pressures are not expected to reduce over the short-to-medium terms.
- 4 The provision of affordable homes has historically been planning led with reliance on Planning Obligations, i.e. through Section 106 (s106) agreements to deliver affordable homes in the district or through the provision of commuted sums.
- 5 With 90% of the district designated as rural belt and 60% as AONB, developable land is in short supply. The Council recognises the importance of Rural Exception Sites in providing affordable housing to areas that need them and continues to promote the opportunities they will bring in providing affordable housing to rural areas.
- 6 The Council is already looking at how it can use its own land assets more effectively to deliver additional housing to assist the Council in satisfying the housing demand caused by the failure of the market to deliver in these areas, whilst at the same time retaining asset value and providing greater control of what is built.
- 7 Limited land supply and the high cost of land in the District makes it difficult for our private Registered Provider (RP) partners, also known as housing associations, to acquire land for building new affordable housing themselves. To make the most cost effective use of s106 commuted sums, the Council has subsidised new developments that could not proceed without some assistance. For example, we are currently working with West Kent Housing Association to subsidise the delivery of 7 new supported housing flats for rough sleepers, using commuted sums at Vine Court Road. Supporting this proposal through the use of s106 commuted sums is an appropriate use of the funding, particularly as this type of supported housing would not otherwise be delivered by our RP partners.
- 8 Intervening in the housing market through direct delivery also offers opportunities to deliver a wider housing offer in areas and tenures that reduces demand elsewhere on the Council's service provision.

## **Quercus Housing - overview**

- 9 Sevenoaks District Council is a non-stock holding Council. Therefore in 2019, the Council established Quercus Housing, a Local Authority Trading Company, to support the delivery of affordable homes in the district.
- 10 £6 million in s106 commuted sums for affordable housing was allocated to support the delivery of the Quercus Housing Business Plan. The funding has been provided by developers where affordable housing could not be delivered on-site. The funding has been used to deliver affordable housing in the Sevenoaks district.
- 11 Until 2021, Quercus Housing's business model was reliant on receiving s106 commuted sums for affordable housing, which impacted its ongoing financial scope to provide an annual programme of affordable housing delivery in line with its Business Plan. This is because the amount of commuted sums is dependent on private sector schemes entering the planning system, being granted planning consent, and S106s being agreed.
- 12 However, at its meeting on 16 September 2021, the Quercus Housing Guarantor Board approved amendments to its Business Plan to enable the company to undertake prudential borrowing via the Council. Any borrowing would be subject to the usual approval mechanisms, including the review of the financial compliance aspects and scheme viability in consultation with the Quercus Housing Guarantor Board.
- 13 Most local authorities opt to borrow, generally from the Public Works Loan Board (PWLB), at rates lower than Quercus Housing could obtain themselves and then on-lend to their subsidiary companies. There is an exemption from Subsidy Control (State Aid) compliance for non-commercial purposes, thus in the case of Quercus Housing, this approach is possible.

## **Quercus Housing - completed investments**

- 14 In 2019, Quercus Housing purchased Gladedale House in Westerham. 5 units conform to the new 'genuinely affordable' definition in that they are within the Local Housing Allowance rate and the remaining 4 units are 'intermediate rent', in that they are 80% of market rent and offered to local essential workers. Five of the units have been leased to Quercus 7 for market rent. The total cost of the project was £3.771m, with £2.481m funded from S106 affordable housing contributions and the remainder of the cost, paid for by Quercus 7, for its leasehold properties.
- 15 Quercus Housing has recently completed the purchase of the freehold of 11-13 High Street in Swanley, which comprises 12 two-bed flats and 3 one-bed flats. 10 units are within Local Housing Allowance and 5 are at 80% of market rent. The development has provided a good opportunity to invest the remaining s106 monies available to Quercus Housing, assisting affordable housing requirements in a single block investment in an area which is popular with renters.

16 All available s106 monies have now been spent or allocated.

### **Quercus Housing - future pipeline**

17 Quercus Housing remains ambitious in achieving the delivery of affordable homes in the Sevenoaks District and is seeking a longer term position to support this ambition and develop a project pipeline for the next 10 years.

18 Although the Council has limited land holdings, exploration of using these sites to maximise affordable housing is imperative. The Council has identified sites as suitable for housing development, including Stangrove, White Oak and Farmstead Drive.

19 These sites would enable Quercus Housing to meet its 'massive small' delivery ambitions to support small sites to play a more meaningful role in the District's affordable housing delivery, including Council-owned sites.

20 The table below, provides an indicative pipeline of projects for the next three years, which will continue to be reviewed and updated over the next 10 years, being presented to Quercus Housing Guarantor Board and at the annual Quercus Housing AGM, when it presents to full Council.

21 A future pipeline of projects could potentially include, subject to the usual due diligence and securing relevant permissions, such as planning, the following sites:

- Abbey Court, West Kingsdown
- Abbeyfield, St Marys, Riverhead
- Stangrove Estate, Edenbridge
- White Oak Leisure Centre residential, Swanley
- Farmstead Drive, Edenbridge

22 Projects costs, financial viability assessment and borrowing requirements will be impacted by current inflation levels and will therefore be undertaken on a site by site basis.

### **Financial Facility**

23 Quercus Housing is therefore seeking Council approve for a financial facility of up to £15m to assist with the delivery of affordable housing. This facility would be funded from prudential borrowing (for example, PWLB) obtained by the Council. The financial facility would be made available to Quercus Housing to support the delivery of the Quercus Housing Business Plan as approved by the Quercus Housing Guarantor Board. Quercus Housing would draw funds from this facility on a case-by-case basis and would be subject to appropriate due diligence being undertaken and subject to the Deputy S151 Officer's approval in consultation with the Chief Executive.

- 24 The headline terms of the proposed financial facility are summarised as follows:
- a. Total facility amount of £15m (which can be extended subject to further Council approval), with a loan repayment over a 30-50 year period, subject to financial assessment and viability
  - b. The facility is to be drawn down by Quercus Housing in ad hoc tranches over a term not exceeding 10 years from the date of Council approval.
  - c. The facility is to be used to support the provision of affordable housing in accordance with the Quercus Housing Business Plan approved by the Guarantor Board, which will review the business plan annually;
  - d. A minimum notice period of 1 month is to be given to the Deputy S151 Officer for a withdrawal from the facility, using an agreed Withdrawal Notice Form. The Withdrawal Notice Form will specify:
    - i. The amount required, its term and repayment details;
    - ii. The scheme against which the withdrawal amount is required;
    - iii. Confirmation from the Quercus Housing Board that:
      - it has approved the scheme and has undertaken necessary due diligence to determine the viability and feasibility of the scheme;
      - it has undertaken Anti-Money Laundering regulatory compliance checks, and;
      - The Council will be granted a registered charge (principal) against the assets to be created.
  - e. Having received a completed Withdrawal Notice, the Deputy S151 Officer will assess the Withdrawal Notice and will have discretion, in consultation with the Chief Executive, as to whether or not to grant the loan and will confirm his decision and release funding if deemed appropriate within 3 weeks of having received a notice or as otherwise agreed with Quercus Housing.
  - f. The facility is also conditional upon:
    - i. Quercus Housing ensuring its schemes, where viable, seek to comply with the Council's Net Zero Carbon Strategy and sustainability policies;
    - ii. The Quercus Housing scheme being compliant with all statutory provisions;

- iii. Secondary charges against the real assets of the organisation are subject to the Council's agreement, and;
- iv. In the event of Quercus Housing ceasing to trade for whatever reason, the assets of the organisation will revert to the Council.

### **Prudential Borrowing**

- 34 The Prudential Borrowing Capital Finance system was introduced in 2004, allowing councils to borrow without Government consent. A council can invest in "any purpose relevant to its functions under any enactment, or for the purposes of the prudent management of its financial affairs". There are Government and CIPFA guidelines which councils must follow and they must adopt an investment strategy on an annual basis. Councils are also required to set aside a minimum revenue provision against any investment. As local authority borrowing contributes to the public sector debt, its overall level of borrowing and future constraints on such have to be considered.
- 35 In principle the Council can use prudential borrowing to support affordable housing development. The great advantage is that the Council is able to borrow from Public Works Loans Board (PWLB) at very competitive rates. For the Council, affordable housing can represent a safe return on investment and it can take security over the properties acquired or developed. The Council has to consider the amount it can lend and what bodies it can lend to within the context of its investment strategy and prudential limits.

### **Other Options Considered and/or Rejected**

- 36 **Option 1:** If Council approves the recommendations in the summary of this report, it will enable Quercus Housing to develop a long-term ambition to deliver affordable housing in the District over the next 10 years.
- 37 **Option 2:** Status Quo - the Council could decide not to approve the recommendations, which would restrict Quercus Housing's financial ability to deliver affordable housing in the district. This would impact homeless households remaining in temporary nightly paid accommodation due to the limited availability affordable move on accommodation in the district, which would have a knock on effect on budget pressures created as a result of the cost of nightly paid accommodation.

## **Key Implications**

### Resource (non-financial)

None. Utilising existing staff resources.

### Financial

New Public Works Loan Board (PWLB) guidance issued in August 2021 specifically mentions that it can be used for housing schemes including on-lending to a wholly owned housing company. The guidance goes on to state: “Housing can include all spending on delivering new homes, maintaining or improving existing homes, and purchasing built homes to deliver housing services. This is the case irrespective of the financial arrangements of the housing project or housing delivery. However, the government expects that the location and value of any housing expenditure be appropriate to meet the local authority’s housing needs.”

Finance will advise whether Minimum Revenue Provision (MRP) may need to be considered to help facilitate any loan. It is important that Finance advises on what the MRP impact is on the Revenue Account. Auditors will need to advise on the MRP percentage to be applied and if they are willing to have this partially collateralised through the properties acquired.

This borrowing would then be forwarded to Quercus Housing who would repay the Council from the rental income received.

### Legal Implications and Risk Assessment Statement

Areas for consideration by Legal include the legality for the Council in terms of providing borrowing via PWLB to Quercus Housing, for example, the defaults and duty of the Council as a lender and default position of the assets held by Quercus Housing (this is particularly important for the auditors in determining MRP).

The Council as principal funder and shareholder should have set-in rights for each development in the event of a default. The assets should be retained as collateral (first charge) against which the loan is secured until such time the loan is repaid. Any insolvency risk should result in the collateralisation of assets to Council. Quercus Housing will work in partnership with the Strategic Head of Commercial and Property regarding any responsibilities under the Environment Act need to be noted in the event of default.

The Quercus Housing Business Plan is reviewed annually and approved by Guarantor Board. The company’s Risk Management Strategy and Assessment will continue to be reviewed and updated to incorporate any future risks and mitigation of borrowing. Detailed budget monitoring is completed on a monthly basis where all variances are explained.

Quercus Housing will need to ensure it has the appropriate governance within to manage the loan facility. All investment decisions resulting in draw-down will have undergone the appropriate due diligence and approved by Quercus Guarantor Board and the S151 Officer.

## Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment.

Where possible, Quercus Housing will seek to align with the Council's net zero ambitions, embedding sustainability measures into any new development, subject to viability.

## 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.

## **Conclusion**

Sevenoaks District is the least affordable area in Kent, with a median house price to median income (workplace based) factor of 12.59, compared with 9.82 in Kent. The factor for lower quartile house prices to lower quartile incomes (workplace based) is 12.92 compared with 10.41 across Kent. (ONS data, March 2020).

Quercus Housing places a high priority on delivering decent affordable housing meeting residents need, and, if the recommendations in this report are approved, will enable the Council through Quercus Housing to proactively and directly provide appropriate affordable housing for local residents.

Quercus Housing would benefit from an ongoing income stream on assets that should go up in value over time, which reduces the financial risk.

If approved, Quercus Housing will continue to build affordable housing in addition to those provided through the planning system, and housing associations utilising their Homes England grant money in the district.

### **Appendices**

None

### **Background paper**

None