


<b>Report of</b>	<b>Head of Commercial Services</b>	<b>Author</b>	<b>Fiona Duhamel</b>
<b>Title</b>	<b>Housing Development Strategy</b>		 <b>282252</b>
<b>Wards affected</b>	All Wards		

**This report concerns the approval in principle of Housing Development Strategy which delivers a programme of new homes in the Borough over a seven year period and creates a commercial opportunity for the Council**

**1. Decision(s) Required**

- 1.1 To approve in principle the recommended outline proposal to commence a seven year programme of direct new build housing development on Council owned sites subject to a full business case being approved by Cabinet at a later date.
- 1.2 To approve in principle the creation of a wholly owned Housing Development Company to deliver, or be capable of entering into a joint venture to deliver, the proposed programme of development, subject to approval of the full business case referred to above, to include further site pre development work, viability testing, financial modelling and specialist legal advice.
- 1.3 To authorise officers to work up the full business case including company structure, further site pre development work and viability testing.

**2. Reasons for Decision(s)**

- 2.1 To bring forward a robust delivery programme of future homes with a range of tenures, such as private market sale homes, affordable homes, private rented homes, key worker homes, and starter homes, in the Borough over the next 7 years.
- 2.2 To stimulate economic growth and bring forward a commercial opportunity for the Council in respect of its underutilised land assets which can be used to contribute to wider Borough objectives.
- 2.3 To take a lead in meeting overall housing stock needs and raising the quality of design and delivery in the Borough
- 2.4 To play a part in the sustainable growth of the construction industry and provide high quality training opportunities through onsite developments
- 2.5 A decision in principle will allow officers to carry out more detailed work on site pre development, financial modelling and viability.

- 2.6 To generate a General Fund cross subsidy mechanism which will provide capital to fund the programme in the absence of available funding through the Housing Revenue Account.

### **3. Alternative Options**

- 3.1 Not to proceed with a further programme of housing development which will adversely affect the chance of bringing forward more affordable homes in the Borough given the current pressure on registered providers business plans.
- 3.2 To move forward another small development of Council build affordable homes similar in unit numbers to Phase 1, however this is not currently affordable given the lack of available borrowing headroom in the Housing Revenue Account. (HRA)

### **4. Supporting Information**

- 4.1 Having completed the first new Council homes for many years in 2015, the Council appointed Ridge Property Consultants to produce a development strategy for Colchester spanning the next ten years. Ridge was appointed as they have recently completed the HRA Asset Management Strategy for the Council and Colchester Borough Homes and have a good understanding of Colchester stock profile. This work is now complete and the strategy has identified a number of asset opportunities which could be used to bring forward new homes.
- 4.2 The report that Ridge produced highlighted that this represents a commercial opportunity for the Council should it wish to develop the homes directly and explore future revenue sources e.g. private rented and or generate capital receipts. It also identified that in order to create more affordable homes, private homes would need to be developed in order to cross subsidise at a time when the HRA is under pressure and grants are diminishing.
- 4.3 The sites that Ridge appraised as part of the development strategy were a combination of both HRA and General Fund assets and ranged from garage sites, to larger areas of land broadly spread across the borough. These sites have been tested in terms of viability at a high level however they require more due diligence in terms of detailed site studies, financial viability, general feasibility and consultation. It is envisaged from the original work carried out by Ridge that up to 860 new homes of varying tenures could be delivered over a seven year period, with an affordable homes contribution of over 25%, taking into account latest guidance from the Housing and Planning Bill, including starter homes and self-build plots.
- 4.4 As part of this initial feasibility process carried out by Ridge, research was carried out to explore the various delivery vehicles available to the Council should it wish to develop mixed tenure housing. Experiences from other local authorities were reviewed alongside legal advice from Pinsent Mason and financial advice from the Chartered Institute of Housing.

#### **4.5 Models for delivery**

Based on research, taking initial legal advice, taking advice from the Chartered Institute of Housing and reviewing the best practices of other Local Authorities the following solutions for delivery were explored by officers:

Delivery Vehicle	Advantages	Disadvantages
<p>HRA Direct Development</p> <p>In the same way that the thirty four Council homes were built earlier in the year,</p>	<ul style="list-style-type: none"> <li>• Development can be made through the HRA by borrowing up to the debt cap limit and by using right to buy receipts.</li> </ul>	<ul style="list-style-type: none"> <li>• This is hugely constrained not only by the borrowing cap but by the supply of land within the HRA.</li> <li>• HRA Borrowing headroom is exhausted so no finances left to consider this delivery vehicle</li> <li>• Development is restricted to affordable housing so no possibility for cross subsidy/profit from private sale</li> </ul>
<p>Wholly Owned Company</p> <p>By establishing a WOC the Council will create a special purpose vehicle (SPV) a limited liability company in which the shares are owned by the Council</p>	<ul style="list-style-type: none"> <li>• Provides a robust commercial opportunity as the Council would use the Company to develop, rent and dispose of housing units and retain developers profit and residual land value which could be recycled to provide more money for future land buying or a higher provision of affordable units or provision of other Borough services</li> <li>• Company can stimulate economic growth in the construction sector through the creation of employment and training opportunities</li> <li>• Can include General Fund land and HRA land transferred/appropriated to the GF</li> <li>• The company could be incorporated on a lean structure with limited directly employed staff but could have management agreements with the Council and its partners to utilise existing services and procure development team and contractors to deliver programme as required</li> <li>• Tried and tested vehicle for Councils to deliver commercial opportunities and housing units</li> </ul>	<ul style="list-style-type: none"> <li>• Uncertainty in respect of central government support for Councils acting as developers</li> <li>• Peak Finance/borrowing would place additional cost into the schemes but this is no different to any other commercial development</li> </ul>
Joint Ventures	<ul style="list-style-type: none"> <li>• Risk is split between the</li> </ul>	<ul style="list-style-type: none"> <li>• Rewards are split between</li> </ul>

<p>The council partners with a private investor to create a development vehicle. This model could be set up so that the council provides land to the vehicle and the partner could support the finance and carry out the development.</p>	<p>parties depending on the contractual arrangements, usually split on value of assets and actual funding put into the development.</p> <ul style="list-style-type: none"> <li>• Partner may bring existing team &amp; expertise and save time</li> <li>• This could be arranged as a Limited Partnership or a Local Housing Company with a House Builder or a partnership with a Housing Association.</li> <li>• A partner may be able to bring their own development sites to the programme.</li> <li>• Tried and tested route for housing delivery in both private and public sectors</li> <li>• Speed of delivery could be introduced tapping into an existing team.</li> <li>• Economic growth opportunities within the construction sector for employment and training</li> </ul>	<p>the parties depending on the contractual arrangement, this could represent a loss of some profit for the Council</p> <ul style="list-style-type: none"> <li>• Council will have reduced control over development quality and numbers of affordable homes etc.</li> <li>• Risk of lengthy procurement process for a development partner</li> </ul>
<p><b>Charitable Arrangements</b> The council could set up a charity and use this as a vehicle for development.</p>	<ul style="list-style-type: none"> <li>• Possible taxation advantages</li> <li>• Possible ethical advantages around reinvestment of profits</li> </ul>	<ul style="list-style-type: none"> <li>• Complex governance arrangements mean that it would be difficult to separate the charities activities from the objectives of the council thus meaning that the benefit of having charitable status would be lost.</li> <li>• It might also be difficult from a profit/surplus angle.</li> </ul>
<p><b>Site Disposals</b> Gain planning permission and remove constraints and de risk sites or packages of sites and sell on the open market</p>	<ul style="list-style-type: none"> <li>• No development risk to the Council</li> <li>• No development or construction costs</li> <li>• Receipts generated more quickly</li> </ul>	<ul style="list-style-type: none"> <li>• Upfront costs for gaining planning consent and removing constraints &amp; risks</li> <li>• No future commercial opportunity once sites are sold and no benefit of additional development profit for recycling into Borough services.</li> <li>• Lack of control over what is developed and when</li> </ul>

## **5. Proposals**

- 5.1 It is proposed that in principle the Council commences a 7 year pipeline of housing delivery to stimulate economic growth in the Borough, maximise land assets in its ownership and provide high quality affordable homes for its residents.
- 5.2 It is recommended that the development would be delivered through a wholly owned Council company, either through the company directly or through the company entering into a joint venture, set up to maximise capital receipts and seek income generating opportunities for reinvestment into wider Borough objectives. Subject to a full business case being brought back to Cabinet as outlined earlier in this report.
- 5.3 The business case will also examine in more detail the prospects for the Council in relation to joint ventures to establish if they would be appropriate for any elements of this programme.
- 5.4 Delivery would be based upon a cross subsidy model to ensure sufficient funding is secured for the provision of a high percentage of affordable homes through the development and subsequent disposal of private market housing.
- 5.5 It is proposed that as part of the development of the full business case, specialist legal advisers in this field are appointed to provide advice and guidance to the Council on the creation of a housing company and to assist in the formation of the company structure.
- 5.6 It is proposed as part of the full business case that officers will carry out more rigorous testing in terms of financial viability, feasibility, consultation and risk assessment on the sites that were appraised as part of the original work carried out by Ridge
- 5.7 In order to complete the more detailed work required to produce a full business case, it is proposed that a budget of £80,000 is approved to be allocated from the New Homes Bonus affordable housing fund. Through research into work that Local Authorities have commissioned this is an appropriate benchmark figure for the first phase of works. The work will be tendered on a competitive basis using an established framework arrangement to obtain Legal and Financial advice, we will seek to reduce costs where possible by working with other Local Authorities and using the Local Government Association where appropriate.  
This first phase of funding would be allocated to develop the full business case and would cover the following key tasks:
  - Agree the development proposals, costs and value assumptions for in principle sites to be taken forwards
  - Develop a detailed financial model for the proposed commercial funding structure
  - Model the impact of various scenarios around ratios of affordable homes within developments
  - Assess the options for the WOC constitutional structure
  - Develop detailed governance arrangements, outline constitutional documents and articles of association
  - Consider the accounting implications of the WOC

- Undertake a detailed assessment of the Councils ability to provide the necessary equity to the WOC
- Consider in detail the corporation tax, VAT and Stamp Duty Land Tax impact of the proposals, and also whether the activities of the WOC impact on the tax status of the Council
- Detailed financial modelling of the projected impact of the WOC on the accounts of the Council
- The outputs from this work would cover the following:
- A financial model that illustrated the viability of sites, the business plan of the Company and the financial impact on the Councils General Fund
- Papers to cover:
  - Financial modelling overview, methodology and results on initial programme
  - Accounting treatment of the Company including balance sheet effects
  - General Fund financial analysis
  - Land transfer position
  - Legal position comprising:
    - i. Establishing the company
    - ii. Governance and the duties of directors of the company
    - iii. The transfer of land to the company
    - iv. The power of entities involved to borrow
    - v. The provision of financial assistance to the company
    - vi. Undertaking of housing management and other day to day activities by the Council on behalf of the Company
    - vii. State aid
    - viii. Competition law
    - ix. Procurement law in relation to the establishment of the company

It is expected that should the business case be approved there will be further work to facilitate the set up of the WOC, the costs of which will be outlined in the forthcoming business case.

## **6. Strategic Plan References**

6.1 This proposal contributes directly to the following Strategic Plan priority area:-

- Provide opportunities to increase the number of homes available including those that are affordable for local people and to build and refurbish our own Council houses for people in significant need

## **7. Consultation**

- 7.1 Initial consultation has taken place with finance officers, planning officers and spatial policy officer. A consultation plan will be required if the project progresses.
- 7.2 All individual developments would require planning permission and appropriate consultations with the local community would be carried out.

## **8. Publicity Considerations**

- 8.1 The proposals are likely to attract significant press and public interest; therefore consultation will be a key consideration.

- 8.2 A communication plan would be developed for the whole programme to include proactive marketing. The delivery of this plan would need to be suitably resourced and this may involve external resource.
- 8.3 Clearly if the Council were proposing to develop the private sector housing then further resource would need to be assigned to the marketing of products during the delivery phase.

## **9. Financial implications**

- 9.1 There are a number of financial matters which will need to be considered in detail as part of the full business case to be brought back to Cabinet. These will include areas such as:-
- The Council's need to borrow and terms of any funding requirement to enable this housing development and the impact of any borrowing on the Council's overall capital plans and treasury management arrangements.
  - The impact on the Council's General Fund of any borrowing costs, including State Aid issues.
  - Consideration of accounting arrangements, tax issues and financial structure of any new company.
  - Assessment of financial returns.
  - Consideration of financial risks and sensitivity of overall financial forecast and business case.
- 9.2 In relation to procurement there may be the opportunity to join new frameworks for the procurement of services and delivery of the properties. This will require further more detailed analysis once the vehicle for delivery has been confirmed. However any company with shares wholly owned by the council will need to comply with the Councils procurement structure.
- 9.3. As highlighted earlier in the report to progress this project there is a need to consider an additional budget allocation and this has been included in the budget update report on this agenda.

## **10. Equality, Diversity and Human Rights implications**

- 10.1 The Equality Impact Assessment for the Housing Development Strategy can be found [here](#) or by following the pathway [www.colchester.gov.uk/](http://www.colchester.gov.uk/) Your Council/ How the Council Works/ Equality and Diversity / Equality Impact Assessments/ Commercial Services/ Housing Development Strategy.

## **11. Community Safety Implications**

- 11.1 Not applicable

## **12. Health and Safety Implications**

- 12.1 Not applicable

## **13. Risk Management Implications**

- 13.1 A full risk register will be appended to the business case when a recommendation is presented to Cabinet.