

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

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| Report to: | CABINET |
| Report of: | Corporate Director, Economy |
| Date of Decision: | 18 April 2017 |
| SUBJECT: | JOINT VENTURE PARTNERING WITH THE PRIVATE SECTOR TO ACCELERATE HOUSING GROWTH |
| Key Decision: Yes | Relevant Forward Plan Ref: 003153/2017 |
| If not in the Forward Plan: (please "tick" box) | Chief Executive <input type="checkbox"/> Approved O&S Chairman Approved <input type="checkbox"/> |
| Relevant Cabinet Member: | Councillor John Clancy, the Leader Councillor Peter Griffiths, Cabinet Member for Housing and Homes |
| Relevant O&S Chairman: | Councillor Victoria Quinn – Housing and Homes |
| Wards affected: | All |

1. Purpose of report:

1.1 To set out how the City Council can work collaboratively with private sector partners to enable and promote housing delivery on challenging housing sites both large and small, ensuring the development of an appropriate quantum of new homes on these sites.

1.2 To set out arrangements for the Council to acquire additional affordable housing from Developers on non HRA sites to supplement the existing BMHT build programme

2. Decision(s) recommended:

Cabinet is recommended to:

- 2.1 Approve the investigation and development of proposals for joint ventures in accordance with the principles set out within this report, noting that each joint venture is to be approved by the appropriate decision maker. ;
- 2.2 Delegate authority to the Director of Economy to submit applications for grant funding where supported by an appropriate options appraisal from the Greater Birmingham and Solihull Local Enterprise Partnership (GBSLEP), the Homes and Communities Agency (HCA), West Midlands Combined Authority and to the Department of Communities and Local Government (DCLG) where opportunities arise to support housing development through joint ventures and to negotiate and accept such funding in the event of such applications being successful.

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Recommendations Continued:

- 2.3 Authorise the Strategic Director of Economy to enter into negotiations with developers to acquire new affordable housing subject to funding being available and delegate the approval of terms for acquisition of new affordable housing from developers to the Cabinet Member for Housing and Homes jointly with the Strategic Director of Economy, subject to meeting the criteria set out in paragraph 5.9
- 2.4 Authorise the City Solicitor to negotiate, execute and complete all necessary documentation to give effect to the above recommendations.

3. Consultation

3.1 Internal

- 3.1.1 The Strategic Director for Major Projects and the Acting Strategic Director for Place, have been consulted regarding the contents of this report, and support the recommendations.
- 3.1.2 Officers in Legal Services, City Finance, Birmingham Property Services and Housing Development and Place Directorate have been involved in the preparation of this report.
- 3.1.3 Ward, Town and Parish Council Members will be consulted as and when sites or properties are identified for potential joint venture proposals and acquisition of properties. The Acting Strategic Director of Place and other relevant Senior Officer from the Economy, and Place Directorates have been consulted and supportive of the report.

3.2 External

- 3.2.1 None required in relation to this report.

4. Compliance Issues:

- 4.1 The development of new homes for a growing city is a key priority for the City Council, and supports the delivery of the HRA Business Plan 2017+.

This proposal responds to the Birmingham Connected five core objectives;

Efficient Birmingham - Birmingham Connected will facilitate the city's growth agenda in the most efficient and sustainable way possible, strengthening its economy and boosting jobs. By entering into Joint Ventures this will help support the delivery of new housing and the growth in the construction industry within Birmingham boosting the local economy and providing employment and training opportunities.

Equitable Birmingham - Birmingham Connected will facilitate a more equitable transport system; linking communities together and improving access to jobs and services, by creating jobs and apprenticeships in the construction industry.

Sustainable Birmingham - Birmingham Connected will specifically reduce the impacts of air and noise pollution, greenhouse gas emissions and energy consumption. New homes are built with a focus on sustainability.

Healthy Birmingham - Birmingham Connected will contribute to a general raising of health standards across the city through the promotion of walking and cycling and the reduction of air pollution, through use of energy efficient homes which reduction our carbon footprint.

Attractive Birmingham - Birmingham Connected will contribute to enhancing the attractiveness and quality of the urban environment in local centres, key transport corridors and the city centre. New homes developed through the joint venture proposals will ensure the best use of land and meet high quality standards and that potentially stalled housing development is delivered.

4.1.1 Birmingham Business Charter for Social Responsibility (BBCSR)

Whilst there is no direct requirement for accreditation to the BBCSR in respect of these joint venture proposals. Developers will be encouraged to agree to the principles of the Charter and produce an Action Plan with commitments proportionate to the value of the capital input.

4.2 Financial Implications

- 4.2.1 The funding for any properties acquired by the Council as part of these proposals will be met from within the Housing Redevelopment element of the approved HRA Business Plan 2017+. Opportunities will also be explored to secure complementary funding through the Local Growth fund, HCA programmes and the West Midlands Combined Authority.
- 4.2.2 The development of new housing through any emerging Joint Venture proposals will be managed to ensure that acquisition, development and sales activities are managed to ensure delivery remains within the limit of resources identified for this purpose at all times, and take account of any taxation consequences associated with chosen delivery models.
- 4.2.3 The new homes built on these sites developed through these proposals will generate Council Tax income and New Homes Bonus income to the Council.

4.3 Legal Implications

- 4.3.1 The Council's power to acquire land for housing purposes is contained within Sections 17-19 Housing Act 1985 (as amended) and the power to acquire land by agreement for any purpose for which it is authorised is contained in Section 120 Local Government Act 1972.
- 4.3.2 As the Housing Authority, the relevant legal powers relating to the discharge of the Council's statutory function to provide for its housing need are contained in section 9 of the Housing Act 1985.

4.4 Public Sector Equality Duty

- 4.4.1 There are currently around 20,000 people on the Council's waiting list for affordable housing. Many of these people live in overcrowded homes across the housing sector. Evidence from allocating properties previously developed under the BMHT banner has revealed the extent of the problem, many families being allocated from accommodation that was too small for their needs. In addition the Birmingham Development plan identifies a need for 89,000 new homes by 2031, by working in partnership with developers to acquire affordable housing this can assist in expediting the delivery of new housing of all tenures, contributing to the housing growth required to respond to the increasing demand for housing within Birmingham
- 4.4.2 Through the BMHT programme, the Council provides homes that reflect the Strategic Housing Market Assessment for Birmingham with an emphasis on 2 bedroom and 4+ bedroom houses. Whilst there is a clear driver for family homes (and these make up the majority of the new development programme) the programme also looks to meet other needs, such as people without children and elderly residents who wish to down-size from under occupied homes. Local need, site restrictions and financial viability are taken into account when determining the exact mix of homes and typologies to build on each site.
- 4.4.3 The BMHT Delivery Plan for 2015-20 included an Equality Impact Analysis and was agreed by Cabinet in December 2014 which operates city-wide. It includes areas where different cultural requirements will need to be reflected in the design of the homes provided. Feedback from previous schemes has been utilised and these will be used in developing the schemes outlined within the BMHT delivery plan. New property archetypes need careful consideration in terms of construction affordability and value for money and have now been refined into the BMHT standard house types catalogue. The Council's house building programme represents a unique opportunity to break the mould of repetitive market house types and meet the specific needs of its diverse population. The joint venture proposals outlined within this report will see the expansion of BMHT housing delivery into sites outside of the Council's control, spreading good design practice and the provision of affordable homes.

5. Relevant background/chronology of key events:

- 5.1 The adopted Birmingham Development Plan identifies a need for 89,000 new homes by 2031, and plans to provide 51,100 homes. At the same time demand for housing is growing in the City, with around 20,000 households on the housing waiting list and 1,500 households living in temporary accommodation.
- 5.2 The latest Strategic Housing Land Availability Assessment (SHLAA) undertaken by the Council identifies sites which could accommodate 43,126 dwellings. As at April 2016, there were 7,460 dwellings with detailed planning permission not started. The proposals within this report are intended to ensure that these sites are brought forward for development at the earliest opportunity.
- 5.3 Developers remain reluctant to take on difficult and challenging development sites. Risk is a key consideration for private sector developers, and in the current market there is a limit to the level of risk that developers are willing to take. This tension can lead to housing developments becoming stalled because of viability issues or developers arguing for substantial reductions in the level of affordable housing numbers, and a slow rate of scheme delivery and poor quality design.
- 5.4 Joint ventures are fundamentally about partnership working to achieve more for both parties than would otherwise be capable if these arrangements had not been made. The Council potentially has a key role to play in working with private sector partners to de-risk schemes, accelerate the rate of housing delivery, and ensure that affordable housing targets are met. By working collaboratively with partners in this way the Council will ensure that the delivery of housing on potentially challenging sites is achieved
- There could be a range of mechanisms that the Council could use to assist developers bring forward sites and each joint venture would be subject to a formal business case which will determine its suitability. The ability of the Council to support developers will be subject to the availability of finance, value for money criteria, taxation consequences of individual proposals and alignment with the strategic aims of the Council.
 - One approach that may be explored would be to work with a developer who already owns a development site but is struggling to progress it due to viability issues and the Council's role might be to assist with the development of the site by agreeing to purchase the affordable housing provision for the site at an appropriate price as outlined above.
- 5.5 The Council in adopting this approach will seek to engage with private sector partners and reduce the financial risks faced by small and large developers whilst ensuring that risks are not unduly transferred to the Council. Achieving an acceptable affordable housing contribution within developments creates a major financial viability challenge for developers, and this approach will not only help to de-risk schemes for developers, but also ensure greater levels of affordable housing than would otherwise have been provided on these sites.
- 5.6 It is important to acknowledge that this approach is only feasible if the proposed cost of acquiring property for the HRA represents value for money and lower than the tender costs for the construction of comparable new properties for BMHT. In addition the design and space standards for these properties should be similar to the standards set out for BMHT, and only schemes which provide this will be considered for this approach. In

addition the Council's ability to work with developers in this manner will be dependent upon the availability of resources.

5.9 In order to expedite decision making in such proposals, it is recommended that approval to enter into joint venture arrangements or to acquire affordable housing from developers is delegated to the Cabinet Member for Housing and Homes jointly with the Strategic Director of Economy. Such proposals will be guided by the following criteria.

- Financial viability – a business case demonstrating that the proposals are financially viable (ie a positive NPV) over a 30 year period
- the proposed cost of acquiring property for the HRA represents value for money and lower than the tender costs for the construction of comparable new properties for BMHT
- Strategic fit – Ensuring that the development of new homes in the location fits with Council's priorities;
- Availability of funding – all proposals will be subject to funding being available.
- Maximising the benefits to local communities - helping to reduce the risk that stalled developments which blight neighbourhoods remain undeveloped.

5.10 An annual report of activity under this report will be reported to Cabinet. The Head of Housing Development will provide this report as necessary.

5.11 A detailed risk register for each joint venture initiative will be developed to look at the risks associated with scheme affordability, legal issues, management and demand of the properties to be acquired through this process, and other potential risks. This will form part of the appraisal to determine whether to proceed with any potential opportunity.

6. Evaluation of alternative option(s):

6.1 The alternative option is not proceed with this joint venture approach. In this case the opportunity to incentivise private sector developers to build more homes for the city would be lost. Inevitably this would have an impact on housing growth within the City and the employment opportunities together apprenticeships would be lost. In addition these sites would take longer to build out with reduced opportunities for affordable housing. However, the Council would retain the resources for use on other HRA priorities.

7. Reasons for Decision(s):

7.1 To accelerate housing growth in the City by working in partnership with the Private Sector

7.2 To increase the potential for affordable housing on financially challenging sites.

Signatures (or relevant Cabinet Member approval to adopt the Decisions recommended):

Councillor John Clancy
The Leader

..... Dated:

Councillor Peter Griffiths
Cabinet Member for Housing and Homes:

..... Dated:.....

Waheed Nazir
Corporate Director Economy:

..... Dated:.....

List of Background Documents used to compile this Report:

Relevant Officer's file(s) on the matter, save for confidential documents

List of Appendices accompanying this Report (if any):

Nil

PROTOCOL PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report at section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in the standard section (4.4) of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty – see page 9 (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

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| 1 | <p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none">(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. |
| 2 | <p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low. |
| 3 | <p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p> |
| 4 | <p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) tackle prejudice, and(b) promote understanding. |
| 5 | <p>The relevant protected characteristics are:</p> <ul style="list-style-type: none">(a) Marriage & civil partnership(b) Age(c) Disability(d) Gender reassignment(e) Pregnancy and maternity(f) Race(g) Religion or belief(h) Sex(i) Sexual orientation |

