

<b>Meeting:</b>	<b>Cabinet</b>
<b>Meeting date:</b>	<b>Thursday, 26 November 2020</b>
<b>Title of report:</b>	<b>Options for the Delivery of Council Owned Affordable Housing</b>
<b>Report by:</b>	<b>Cabinet Member Housing, Regulatory Services, and Community Safety</b>

## **Classification**

Open

## **Decision type**

Key

## **Wards affected**

(All Wards); County Wide

## **Purpose**

To approve the approach to the delivery housing model options available to the council to increase the supply of affordable housing in the County. Cabinet is also requested to approve Phase 2 of this strategic work to develop a pipeline of sites suitable for development as affordable housing to support discussions with key partners including Homes England.

The County Plan 2020-2024 sets out the council's ambition to provide 1,000 affordable housing units in the county. The term affordable is taken in its widest sense – to provide a range of housing that is genuinely affordable to both rent and purchase given local earnings. The council has not owned its own housing stock since 2002 and a review has therefore been undertaken as to the most appropriate role for the council in delivering its ambition. The options and delivery proposals suggested recognise the structures already in place and available to the council.

## **Recommendation(s)**

**That:**

- (a) **Cabinet consider the options set out in this paper and select the one that best represents the way forward to deliver up to 2,500 homes in the County over the next 10 years. The options are:**
- i. **the council own the affordable units initially under the General Fund and then establish a HRA,**
  - ii. **the council set up a Housing Company to deliver and own the units,**
  - iii. **the council set up a formal Joint Venture to deliver and own the units, or**
  - iv. **the council enter a formal partnership with existing Registered Provider(s) for them to deliver and own the units;**
- (b) **approval to spend up to £72k on the development of the housing model chosen in option (a), by developing a full business case;**
- (c) **ask Engie to develop recommendations for proceedable sites to be reviewed at Cabinet in December 2020;**
- (d) **approval to spend up to £71k to develop recommendations for potential sites to be reviewed at Cabinet in January 2021 to agree how to progress affordable housing delivery in Herefordshire; and**
- (e) **appoint an independent expert within a budget of £20k to advise on ensuring that housing built through this programme is compatible with our commitment to being a net zero carbon council by 2030.**

## **Alternative options**

1. The council could choose not to intervene in the provision of affordable housing in the County and allow the current arrangement of Registered Providers (RPs) and house builders to meet provision. However, the type and scale of development produced via RPs and private house builders in recent times has not kept pace with demand for affordable housing seen as one of the key components of the County's wider economic ambitions.

## **Key considerations**

2. Herefordshire has experienced a housing affordability gap for a number of years and is regularly identified as having one of the worst house price to earnings ratios in the West Midlands. Based upon median house price to income levels the ratio was 9.82 in September 2018 compared to highest (Malvern Hills) at 11.31 and lowest (Stoke on Trent) at 4.39.
3. A Local Housing Market Assessment has recently been commissioned and is due for publication in November 2020. This is a survey to understand market and affordable need in the County and from the results it will be possible to determine what the unmet need in the County is and where delivery should be focused. There is a limited supply of affordable housing being released through the housing waiting list each year and access to the private rental sector, which might ordinarily represent an alternative route to housing, is similarly limited due to high rental values being out of reach to many households (Shelter Report 'The cost of unaffordable rents in the private rented sector')

November 2019), and, more recently, evidence of smaller private landlords withdrawing from the private rental market.

4. At a strategic supply level the delivery of both market and affordable new housing is falling short of the housing target of 16,500 new homes set out in the adopted Herefordshire Core Strategy, with only a 4.05 years forward housing land supply reported in 2019 against the 5 year minimum requirement set out in the National Planning Policy Framework (NPPF) and currently dropping. In the developer-led market where the focus continues to be on developing the most profitable housing types on the most profitable and deliverable sites, some larger strategic housing sites in the Core Strategy have not yet been delivered. The lack of delivery of smaller and more affordable new homes is therefore placing additional pressure on house prices and the associated accessibility of the housing market to local and/or newly forming households. NPPF policy, removing any obligations to deliver affordable housing on sites of 10 houses or less, has contributed to the challenges faced by local authorities in securing new affordable homes.
5. The impact on Herefordshire's population is that many residents, especially within the younger population, are unable to remain living in their local communities. The lack of housing availability and choice in the County raises house prices and creates barriers for Herefordshire's vulnerable residents and its growing population of older people to secure suitable homes that are affordable, accessible and can be adapted to suit their changing needs. This therefore increases the risk of older and vulnerable households becoming overly reliant on statutory support and care services and losing independence at an earlier stage than necessary. The wider economic, health and wellbeing impacts of housing market failure in Herefordshire represents a significant challenge for the broader communities of Herefordshire and creates a financial risk for the council in sustaining services to meet the increasing demand for support services.
6. Delivering council owned housing to help address the shortage of affordable housing in the County is intrinsically linked to the ambitions of the new County Plan 2020 – 2024:
  - Environment – protect and enhance our environment and keep Herefordshire a great place to live
  - Community – strengthen communities to ensure everyone lives well and safely together
  - Economy – support an economy which builds on the County's strengths and resources
7. Affordable housing is defined under the council's Draft Affordable Housing Supplementary Planning Guidance Document (SPD) as:
  - Social rented for which guideline target rents are determined through the national rent regime
  - Affordable rented housing subject to rent controls that require no more than 80% of the local market rent
  - Intermediate homes for sale and rent, provided at a cost above social rent but below market levels, including Shared Ownership (SO)
  - First homes – homes sold at a minimum 30% discount in perpetuity.

8. Engie Regeneration and ARK Consultancy have been engaged to review the role the council should play in the delivery of affordable housing in the County. ARK are an experienced consultancy who have advised a number of local authorities on this subject matter. They have also worked with housing associations and developers so understand the affordable housing market from all sides. Their experience also extends to supporting organisations establish commercial trading companies to deliver their objectives.
9. The starting point for ARK's review was the fact that the council currently does not have a Housing Revenue Account (HRA). Dialogue has been held with Cabinet Members on the options available to the council and full details of Engie and ARK's analysis and recommendations can be found in Appendix 1.
10. Their analysis considers the provision of affordable housing in two parts:
  - The option for the council to either own direct or be involved in a structure that owns the affordable units, and
  - The option for the council to engage with other partner(s) and for them to deliver and own the affordable units.
11. ARK's review is summarised in the matrix in Appendix 1 page 30 of this paper. All of the options assume that the council will want to be able to receive public funds from Homes England. The key points on each option are as set out in the table below.

Option and Characteristics	Strengths	Weaknesses
Council build and retain affordable units initially under the General Fund and then a HRA. Generally used by Local Authorities to concentrate on delivering affordable housing	Council retain full control over what is developed and when and how the units are managed and maintained. Some flexibility over rent levels (within Homes England guidelines), however social rent will not be able to be delivered as this is currently not supported by HE grant funding. HRA is the cheapest and simplest way of establishing an asset owning structure. It is also possible to develop open market for sale however, the profit has to be used as a cross subsidy on an identified affordable housing scheme	Council required to fund the development of units. Need to have resource in finance and housing teams to manage HRA. All monies collected from the housing have to be reinvested into the HRA and it cannot be used to pay off council debt. Would need to have expertise available around developing market housing should that be required for viability purposes although this can be mitigated via existing Development Regeneration partnership (DRP) arrangements.
Council establish Housing Company as a trading entity to develop both affordable and market housing. Generally used by Local	All rewards from market housing go back to the council. Council in full control of what it does and when it	More expensive and complex to establish than HRA. Company would need to become a RP to hold affordable units or the

Authorities who already have a HRA and want to trade in market housing.	does it without influence from a partner.	council set up a HRA. Council takes full risk on all market housing. Need to develop expertise to deliver and run the company but this could be mitigated via existing DRP arrangements.
Establish formal Joint Venture with a partner or partners to develop both affordable and market housing. Generally used by Local Authorities who already have a HRA and want to trade in market housing, sharing risk and reward with a partner.	Risk and reward is shared with a partner who can also provide the development and management expertise. Council, through the agreement retains some control over what is developed and when and how units are managed.	The most expensive option to establish and complex to set up. JV would need to become a RP to hold affordable units or the council need to establish HRA for the affordable units. Seen by some as remote from a governance perspective.
Form strategic partnership with existing RP(s) to deliver and manage affordable units. Could be structured as a simple partnership agreement with clear roles and responsibilities.	Simplest, cheapest and potentially quickest arrangement to establish. RP has expertise and will fund and manage completed units. Development and management risk borne by the RP depending upon the agreement.	Council won't own the asset or build up an asset base. No income through trading for the council. Council will cede an element of what happens and when, viability control and setting of rent levels to the RP but can control this via the agreement.

12. In summary, if the council wish to retain ownership of the completed affordable units then the simplest, quickest and cheapest option of achieving this would be by the establishment of a HRA. Establishing a Housing Company or entering into a formal JV would expose the council to greater risks and require either the company to become a RP or the council to have a HRA to hold affordable units. On the other hand, the most straightforward route to delivering affordable units is to form a partnership with one or more RPs with the RP taking the risk on development and management. However, the council would cede an element of control over what happens and when and would not own the affordable units developed.
13. Whichever housing options is chosen further resource will be required for continual housing management and ongoing maintenance. The details would be developed as part of the detailed business case.
14. In terms of the council's ambition to develop a portfolio of new council owned housing, initial discussions have been undertaken with Homes England (HE). The council's ambitions to deliver 1,000 units in a four year period were well received. HE are currently reviewing their approach to supporting the delivery of housing across the country and are looking to establish strategic partnering arrangements with public sector organisations who have the scale of ambition identified by the council. The fact that the council is a significant land owner with partners already procured and who can therefore deliver quickly is attractive to HE. Whilst there is some way to go in establishing a programme

approach with HE (as opposed to a project by project approach) these initial conversations have been positive. To advance the dialogue and to re-inforce the commitment of the council, HE are looking for comfort around the pipeline of delivery of schemes that could come forward.

15. In conjunction with the dialogue with HE, the council will continue to undertake regular reviews with RPs operating in the County. Undertaking the development of affordable housing in the manner envisaged by this paper and achieving strategic delivery partner status with HE could impact on the development plans of existing RPs. A co-ordinated approach to the wider delivery of affordable housing with an increase in the number of affordable homes available in the County is a key driver for the council and the investment decisions by current RPs in the County is an important consideration in this regard.
16. There are few examples of where councils who disposed of their council housing stock have fully re-established their HRA. Examples of Local Authorities who have considered or are considering re-opening their HRA include Sunderland, Peterborough, Bromley, Liverpool and Pendle. Having exceeded the number of homes now allowed under the general fund exemption (199), Bradford Council have re-established a HRA from 1 April 2020.
17. Other Local Authorities have established delivery vehicles (wholly owned companies) through which they can develop homes. However, comparisons with others is not straight forward. Most have retained a HRA and can utilise this to attract public grant and manage stock. Others are comfortable taking the development and sales risk rather than sharing this with partners.

## **Community impact**

18. The County plan aims to shape the future of Herefordshire and encourage and strengthen communities whilst creating a thriving local economy and protecting and enhancing the environment to ensure Herefordshire remains a great place to live, visit, work, learn and do business. Taking forward one of the options would allow for all of those strands to be achieved.
19. The council recognises that healthy, connected and vibrant ecosystems strongly support the local economy, improve health and wellbeing and make the County an attractive place to live and to visit. It is vital that we protect and enhance this environment while stewarding it for future generations. Access to green space in Hereford is vital and this will be a key consideration throughout all developments.
20. High quality formal care for vulnerable people of all ages will be a primary consideration in the development pipeline. This commitment is supported in the County Plan, to improve outcomes for children in care, and moving on from care, and support them to make good life choices and enabling people to reach their goals.
21. Technology will be used to contribute to meeting any desired outcomes. Some of Herefordshire's most vulnerable residents have very complex needs which can be very challenging and costly to meet. Investing in new models of care, housing and accommodation will maximise the levels of personal independence these vulnerable people are able to attain while remaining in their communities. This could include new care homes, care villages, technology or specialist accommodation for vulnerable children and young people.

22. Providing 'genuinely' affordable homes delivered through carefully planned policies and sustainable development will meet the needs of local people, improving Herefordshire's house affordability ratio making accommodation more affordable.
23. Increasing the number of private rental properties will contribute to a balanced community providing additional accommodation of an alternative tenure to meet a wider cohort of residents in the County and encourage existing private landlords to increase the standards of their existing current accommodation.

## **Environmental Impact**

24. Depending upon the option chosen the council can heavily influence or retain full control of what is ultimately built as part of this programme. This ensures that all the council's sustainability policies and objectives can be met for each project.
25. The proposal for the council to advance affordable housing and have at least an element of control over design helps deliver the council's environmental policy commitments and aligns to the following success measures in the County Plan:
  - Increase flood resilience and reduce levels of phosphate pollution in the County's river – by ensuring that new developments take into account opportunities to minimise the impact on the environment including, where appropriate, through grey water capture and other methods.
  - Reduce the council's carbon emissions – seeking high levels of sustainability and energy efficiency in the construction and operating costs of new homes delivered.
  - Work in partnership with others to reduce County carbon emissions – working with partners to minimise our carbon footprint in terms of methods of construction and in seeking the use of local materials and labour wherever possible.
  - Improve the air quality within Herefordshire – supporting the development, where appropriate, of car free schemes in new developments and making provision for safe cycling and walking spaces.
  - Improve residents' access to green space in Herefordshire - ensuring new developments make appropriate provision for green space and the use of appropriate, indigenous planting.
  - Improve energy efficiency of homes and build standards for new housing – good design and high levels of energy efficiency in council-owned or influenced developments will provide a blueprint principle to other developers in Herefordshire.
  - Increase the number of short distance trips being done by sustainable modes of travel – walking, cycling, and public transport – promoting access to sustainable modes of transport in the master-planning of larger scale developments.
26. The council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability,

achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.

27. The environmental impact of any development proposals will be considered through the service specification and includes appropriate requirements on the contractor/delivery partner to minimise waste, reduce energy and carbon emissions and to consider opportunities to enhance biodiversity. This will be managed and reported through the ongoing contract management.
28. The development of this project will seek to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance.

## **Equality duty**

29. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this 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.
30. Section 9 of the Housing Act 1985 (the 1985 Act) is the key power for councils to provide housing accommodation. It includes two sets of acquisition provisions: Sections 9(1)(b) and 9(2) - a local housing authority (LHA) may acquire houses – and alter, enlarge, repair or improve a house so acquired; Section 9(3) – a LHA can exercise the Section 9 powers to provide housing accommodation "in relation to" land acquired for the purpose of (a) disposing of houses provided, or to be provided, on the land or (b) disposing of the land to a person who intends to provide housing accommodation on it.
  31. The Localism Act 2011 enables local authorities to make their own decisions to adapt housing provision to local needs, and make the system fairer and more effective giving local authorities more control over the funding of social housing, helping them to plan for the long term and giving the people who live in social housing new ways of holding their landlords to account. From this programme a focus will be to deliver supported and accessible accommodation for vulnerable groups which advances the equality of opportunity to access the housing market by those who share a protected characteristic.
  32. Establishing a delivery mechanism for affordable housing will provide particular benefit for disabled people, older people, care leavers, LAC who all belong to groups who share protected characteristics. The current housing market is failing to make adequate provision for these cohorts, the development pipeline will focus on their needs and develop accommodation in line with identified need such as a care home.
  33. The accommodation will add to the County's housing stock and will be affordable in perpetuity allowing future households who share protected characteristics to also have access to appropriate accommodation. Consideration has been given to the types and standard of accommodation required taking a fabric first approach to building design,

maximising the performance of the components and materials. Taking this approach can minimise the need for energy consumption so will be cost beneficial to the occupant, demonstrating the council's commitment to equality and their pro-active approach to ensuring the right properties are available in the right location and built to a high specification to meet the their needs.

## Resource implications

34. The choice of a housing model does not have any financial implications as it is purely a mechanism to manage housing stock.
35. The remainder of the original allocated £150k Housing Reserve for Engie to develop a detailed proposal to take forward the selected model can be used as a contribution towards developing the initial business plan.
36. In order to progress the development pipeline and establish a draft programme for delivery, it will be necessary to allocate funding from the DRP capital budget of £71k, if the work does not progress the costs will revert to revenue costs. This piece of work will be provided from Engie to assess the deliverability of potential sites and, will consider the viability of each site and recommend a number of options which ensure the full cost of building the houses can be recovered by either sale or rental income. Due to the ambition to deliver housing to passivhaus standard and rent at social rent levels, it may be a requirement that a number of houses need to be sold to ensure the full cost recovery over 40 years.
37. HM Treasury wrote to all local authorities in March 2020 to explain borrowing for a HRA can be 100 (1%) basis points lower than the current Public Works Loan Board rate at the time of borrowing.
38. Once the units are constructed and held then the full annual costings of managing and maintaining the units will need to be funded from the revenue received from the units, irrespective of the model chosen.
39. The tables below show a summary of costs already incurred for scoping of housing models and future costs to complete the detailed analysis on the chosen housing solution.

Revenue or Capital cost of project	2020/21	2021/22	Future Years	Total
	£000	£000	£000	£000
<i>Scoping report and research by Engie &amp; ARK</i>	78			78
<i>Undertake further analysis on the chosen housing option</i>	72			72
<i>Pipeline of sites</i>	71			71
<i>Advice on environmental aspects to building</i>	20			20
<b>TOTAL</b>	<b>241</b>			<b>241</b>

<b>Funding streams</b>	<b>2020/21</b>	<b>2021/22</b>	<b>Future Years</b>	<b>Total</b>
	<b>£000</b>	<b>£000</b>	<b>£000</b>	<b>£000</b>
<i>Housing revenue reserve, approved in October 2019</i>	<b>150</b>			<b>150</b>
<i>DRP Capital Budget</i>	<b>91</b>			<b>91</b>
<b>TOTAL</b>	<b>241</b>			<b>241</b>

## Legal implications

40. The council has the legal power to deliver any one of the options listed in Recommendation (a).
41. The council has procured its development and regeneration Engie Regeneration Limited (Engie) through a Public Contract Regulations 2015 compliant procurement process. The council entered into legally binding overarching agreement with Engie under the terms of which Engie can be commissioned to develop options for proceedable sites.
42. There are no other specific legal implications arising from this report as it relates to the consideration of housing delivery options.

## Risk management

43. The key risks associated with the options outlined in the paper are as follows:

<b>Risk / opportunity</b>	<b>Mitigation</b>
After the first 199 units are completed and held in the General Fund, a HRA is not established in time to secure Homes England funding for future schemes	Continue to engage with RP partners who could step in and develop and own the units potentially including via the DRP
There is a risk that developing and owning in whatever guise the first 1,000 units prove to be uneconomic and inefficient in relation to the costs associated with such a small number of units	Current viability modelling undertaken suggests a positive cash flow for some of the tenures in the early years based upon industry norm allowances for management and maintenance. Would need to be monitored as the business case is developed.

The council wishes to develop affordable units that would be rented at social rent levels but this is not supported by Homes England grant	Current Homes England grant arrangements exclude use for social rent but the latest round of funding recently announced suggests this may change.
If RPs are utilised to develop and manage units the council can't control what is delivered	The council would retain control by way of nomination rights, restrictive covenants on the land sale/ transfer and construction to an agreed specification between the RP and the Council.
Existing RPs developing in the County decide to no longer include schemes in their forward plans as the council are now developing affordable units, thereby reducing the overall number of new affordable units built	Continue dialogue with all existing RPs developing in the County to understand the expectations of the organisations, understand their ambitions and agree what steps can be jointly agreed to maximise the delivery of affordable housing in the County
Affordable homes developed as part of the programme and owned by the council either in the General Fund or HRA are subject to Right to Buy and could be purchased by individuals at large discount	This is a statutory responsibility of stock owning authorities. The risk can be mitigated for the first 10 to 15 years via the cost floor rule where the discount could be reduced to nil if the cost floor is more than the value. Supported schemes can be excluded from Right to Buy.
The council doesn't have the resources currently in house to staff a Housing Company or formal Joint Venture	Would need to recruit appropriately qualified staff into the separate company or JV to implement intelligent client role or outsource to others
Risk of procurement challenge from external developers and contractors in the event of the council utilising the DRP partners to design and construct the units	In the event the council decided to utilise the DRP for design and construction, ensure that any projects delivered by the existing DRP partners are drawn down in a manner that is fully compliant with the terms of the Overarching Agreements already in place
Value for money cannot be achieved utilising the existing DRP partners	Try and resolve via Programme Board. Council retains the right to seek bids from alternative contractors, acknowledging possible delays to delivery as any alternative would need to be publicly procured
The council does not have the capacity in the Finance team to progress with establishing a HRA	Utilise external resource to supplement internal resources
Early schemes are not viable and would lead to the HRA operating in deficit	Consider the mix of tenures to be developed and in particular the proportion

	of homes for sale to cross subsidise the affordable element
HRA funds cannot be utilised to fund homes for market sale or rent or to build ancillary commercial uses	As long as the council is not seeking to trade for a profit then it can use funds from the general fund to develop out a scheme in the first instance. Only affordable units are then transferred to HRA
The council does not have the internal capacity to bring forward a pipeline of developments at the pace required	Utilise the resources and expertise within the DRP partners and their development management skills to develop a pipeline of deliverable projects attractive to Homes England
The council retain the risk of compliance with health and safety requirements	Part of the intelligent client role would be to engage the services of a Principal Designer at the outset of a scheme in line with normal procedures
The council will be required to take on too much risk in the delivery of homes for sale or market rent to make a scheme viable	Potential to utilise the existing DRP arrangements to agree risk and reward with partners on a scheme by scheme basis
The council don't achieve the delivery of 1,000 affordable units as quickly as they would like	Reviewing a pipeline of sites to understand their suitability for delivery and ranking them in order of priority enables decisions to be made early on implementation of the programme
There is difficulty engaging with the local sub-contractors to get their involvement in building the units, reducing the social value impact of the programme	Developing a pipeline of schemes and committing to the programme enables positive engagement with local sub-contractors and certainty around potential workloads. Could also consider modular construction.

44. Risks are managed according to the council's performance risk management framework, and recorded on a service risk register, being escalated to the directorate or corporate risk register according to the significance of the risk.
45. A project risk register will be maintained on the council's project management system, Verto.

## Consultees

46. Consultations have taken place with the Cabinet Members for Housing, Regulatory Services, and Community Safety; Finance and Corporate Services; Commissioning, Procurement and Assets; and Environment, Economy and Skills.

47. Two workshops have also been held with full Cabinet to review and debate the options available to the council and to introduce issues around scheme viability and the impact of decisions around mix of tenures, type and style of development and the like.
48. This paper and the recommendations contained within it incorporate comments received during the above consultations.
49. Full consultation for the likes of planning will be undertaken on schemes as they emerge.
50. Comments received from political consultation support the provision of housing that remain within the control of the council for a long term and are delivered as quickly as possible. Other questions regarding the sites and managing of properties is outside the scope of this report and will be reviewed in later decisions.

## **Appendices**

Appendix 1 – ARK Consulting - Report to Cabinet Outlining Options for the Delivery of Council Owned Housing, September 2020

## **Background papers**

None

## **Please include a glossary of terms, abbreviations and acronyms used in this report.**

Included in ARK Report