

Name of meeting: Cabinet
Date: 20th January 2020
Title of report: Mixed Tenure Council House Building: Direct Delivery/Bridge Homes
Joint Venture

Purpose of report:

This report asks for consideration of the option to directly deliver future programmes of new mixed tenure council developments including council housing

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes Spending in excess of £250k and affects all electoral wards
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	Key Decision – Yes Private Report/Private Appendix – Yes
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Karl Battersby - 23rd December 2019 Eamonn Croston - 3rd January 2020 Julie Muscroft - 19th December 2019
Cabinet member portfolio	Give name of Portfolio Holder/s Cllr Cathy Scott Cllr Peter McBride

Electoral wards affected: All

Ward councillors consulted: No

Public or private: Public report with Private appendices

Has GDPR been considered? Yes, development appraisals and appendices remain private.

1.0 Summary

1.0.1 In August 2018 cabinet approved the exploration of a Local Housing Company (LHC) model in accordance to the Councils Housing Strategy; 29th August 2018:

Agenda Item 10, Housing Delivery Plan, Appendix 4 Options Assessment:

- a. *Corporate JV*
- b. *Wholly owned Local Housing Company (Direct Delivery)*

1.1.2 With regards the LHC; senior officers entered into strategic discussions with a number of potential Joint Venture partners; following many months of dialogue and assessment as part of a wider option appraisal: senior officers identified a potential partnership with Bridge Homes Yorkshire, a fully operational housing development company owned 50/50 through JV Co by Wakefield Metropolitan District Council (WMDC) and Wakefield and District Housing – Wakefield Council's stock transfer to WDH (CCBS/RP).

1.1.3 During this period The Ministry of Housing, Communities & Local Government (MHCLG) announced the removal of the Housing Revenue Account (HRA) debt cap, significantly improving the potential for stock retaining councils to use their respective HRAs to fund council house building programmes through borrowing against the assets held in the HRA. Furthermore, Section 9 of the Housing Act 1985, allows Councils to build homes for sale funded through the HRA.

1.1.4 The profits generated from the sale of market housing would be required by government to be ring-fenced within the HRA to pay back borrowing debt, delivery of housing regeneration or for cross subsidising the development of marginal sites and additional affordable housing. The funds generated from Right to buy receipts could also potentially be used to gear up funding for new housing schemes.

1.1.5 Summary of Legal Powers:

- Section 9 (I) Housing act 1985 enables the Council as local housing authority to provide housing accommodation by erecting houses on land acquired. This activity does not need to be carried out via a commercial trading company and does not require the Council to retain ownership of the completed units

This includes mixed tenure development and enables the council to develop market sale housing within the HRA on HRA land for the purposes of Part II of the Housing Act 1985 which will help to ensure the viability of social and affordable housing.

- Section 32 Housing act 1985 prohibits the council from selling land for the purposes of housing accommodation without Secretary of State's consent
- Section 34 Housing act 1985 enables the council to sell land for the purposes of Part II housing accommodation. However there are General housing consents under S34 that permit disposal at market value.
- Section 122 Local Government Act 1972 enables the council to appropriate land from General Fund to HRA which involves suitable adjustments to the HRA and General fund capital accounts.

1.1.6 Officers have therefore been considering 2 options:

- 1) The council's capacity to directly deliver new homes across a range of tenures through the HRA
- 2) A Joint Venture with Bridge Homes.

1.1.7 The council's objectives for new mixed tenure development are set out as follows:

- Mixed tenure/mixed income on Council sites based on a scheme viability of 70% affordable tenures (inc. shared ownership, Rent to Buy) and 30% market sale where it supports regeneration and place making

- Discharge the Council's strategic housing duty under section 8 of the Housing Act 1985 namely to plan and facilitate a supply of new housing
- Deploying the HRA to deliver high quality housing-led regeneration and choice for citizens
- Supporting the Local Plan by complimenting (and not competing with) the market to meet the delivery test targets
- Supporting the council's climate change agenda through intelligent/green homes design, the use of sustainable materials and using renewable and smart technologies
- Building relationships/reputation to supplement and support the existing local housing market
- Where possible; adopting modern methods of construction (MMC) to deliver sustainable and affordable products
- Tackling hard to develop/marginal sites
- Maximising the use of the HRA to build and retain upto 70% of affordable housing developed in this programme
- Ensure that development is affordable to the Council over the longer term

This report provides an overview of the 2 options discussed above.

2.0 Information required to take a decision

- a) Local Housing Company (LHC): JV with Bridge Homes Yorkshire
- b) Direct Delivery

2.1.1 (a) JV with Bridge Homes Yorkshire (LHC)

2.1.2 Bridge Homes has an established track record of delivering homes within the Wakefield administrative area over the past 3 years. Bridge Homes has developed its own brand, house types and market sales capacity to develop out sites from inception to completion. Audited accounts for 2018 show Bridge Homes had a turnover of £3.09M, net current assets of £8.43M and delivered a gross profit of £813,155. Bridge Homes was originally set up as a development subsidiary vehicle to jointly develop out Wakefield District Councils (WDC) land assets for housing. Consequently; the Bridge Homes Yorkshire Board includes elected members from WDC.

2.1.3 In addition to a proven track record of delivery and quality, Bridge Homes Yorkshire is committed to delivering affordable housing policy requirements, demonstrates appropriate profit targets when comparing with other house builders, is local to Yorkshire and shares a number of aims and cultural values and would be considered a trusted partner of Kirklees Council.

2.1.4 The following principles have been discussed with Bridge Homes confirming the aims and objectives of the proposed JV as follows:

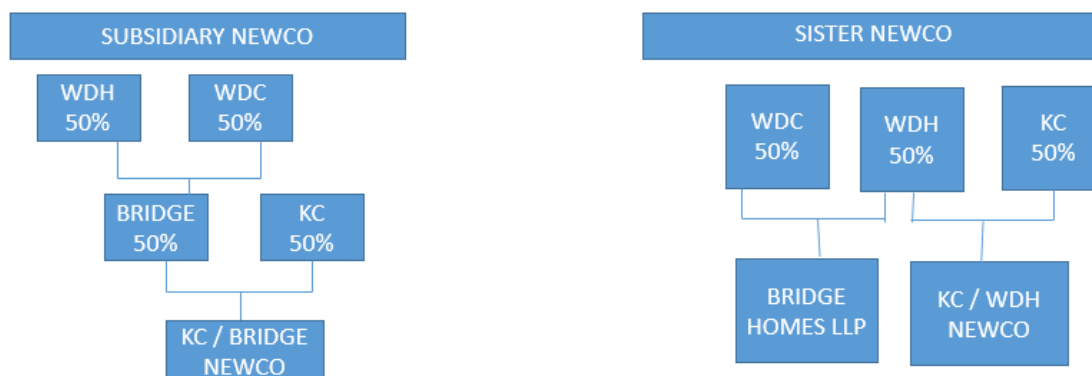
- The JV would trade for profit albeit a profit restricted to 13% of Gross Development Value rather than a commercial developers target profit of c.20% of GDV.
- Any transfers of Kirklees Council owned sites into the JV will be based on 3rd Party open market value (RICS) red book valuations.
- The JV would ensure council sites are fully policy compliant in terms of S106 obligations and the requirement for 20% affordable housing.
- The affordable housing element of the project would be split 50:50 between social rented and shared ownership (intermediate) housing.
- The Council would purchase the social rented stock and WDH will purchase the shared ownership stock from the JV.
- Because of the flexibility around keeping separate tax arrangements; a Limited Liability Partnership (LLP) is considered the best vehicle through which to operate a JV.
- The JV ownership of the LLP would be a 50:50 partnership with each party being required to equally fund the company's development activities with each being required to provide equity input of £2.5m - £3m to peak cash requirement of c £6M. This would ensure an equal share of risk and reward.
- The appointment of contractors and other consultants would be via competitive tender process.

- The JV will try as far as possible to locally source contractors and subcontractors.

2.1.5 Alternative JV Ownership Structures

There may be concerns relating to an out-of-area political involvement in the proposed Kirklees housing company; therefore it may also be possible to consider an alternative arrangement whereby KC would enter into a 50:50 JV with WDH and effectively create a sister company to WDH rather than a subsidiary of Bridge Homes.

The alternative ownership structure options are illustrated in the diagram below:-



2.1.6 However, whilst forming a sister company with Wakefield District Housing (WDH) may avoid some of the issues of out of area political involvement on the Board, risk and reward is shared and it reduces the Council's investment compared to HRA; it has the added complication that the expertise brought by Bridge Homes would then have to be separately procured by the new KC/WDH JV and Bridge would effectively become the Newco JV's paid consultant rather than direct development partner. Whilst WDC does not own any part of WDH; it is the council's stock transfer and Registered Provider hence a number of WDC councillors sit as independent and non-executive directors, but they are not nominated or directed by WDC to sit on the WDH Board.

2.1.7 Although a number of stock holding councils are favouring a Local Housing Company, there remain a number of constraints and possible duplications when comparing the option to directly deliver which are further compounded in light of the removal of the debt cap and our potential to increase borrowing:

- An LHC would be an independent arms-length commercial organisation wholly or partly owned by the council. New homes developed by the LHC would sit outside of the local government housing financing system (HRA) and therefore not subject to the Housing Act and most of the social/affordable housing regulations;
- The Council would have to appoint a Board and establish a separate governance structure in order to manage the LHC's commercial and operational activity, this is currently in place with the existing ALMO; KNH
- The LHC provides the council with a level of control and autonomy over development activity, as does the DD model
- Both DD the LHC can generate income and cross-subsidise new housing

2.1.8 Although negotiations reached an advanced stage with draft Heads of Terms and Memorandums of Articles, the government's announcement of the removal of the debt cap from October 2018 prompted an investigation into the proposal to use the HRA to fund new mixed tenure homes.

2.2.0 (b) Direct Delivery Option

2.2.1 In comparison to LHC Joint Venture; the Direct Delivery model presents less complexity but will require to strengthen the capacity and capability of its housing growth team working collectively with reliable delivery partners and supply chain to develop and deliver a pipeline of new mixed tenure housing.

2.2.2 Whilst the council is able to demonstrate competencies in development and construction of housing, this expertise is broadly based around the design, development and construction of social and affordable homes as opposed to housing for market sale.

2.2.3 The success of the direct delivery option relies on a number of key considerations:

- Resourcing. Skills and capacity of the team
- Identifying and maintain a pipeline of suitable sites for development and de-risking them in advance
- Increased Capital funding requirements and impact on HRA Business plan
- EU procurement implications
- Development/Construction risks.
- Schemes may not achieve best consideration impacting affordable units numbers due to unpredictable property market linked to Brexit
- Challenge of scheme through planning or procurement
- Higher rewards being balanced against sharing development risks and costs with a partner.

2.2.4 Direct delivery places additional pressures on the team to understand the local market and develop an offering that is both attractive to buyers and sustainable:

- **The Kirklees Housing Market:** The UK's exit from the EU is still not clear, while many MP's oppose 'no deal' Brexit it remains the default position if Government can't get its deal through Parliament; Accountancy firm KPMG has predicted that house prices would fall by around 6% following a no-deal Brexit, but that they could drop by as much as 20%. As the uncertainty around the impact of departure remains unclear, potential purchasers maybe put off due to the ongoing media speculation of a 'no deal', notwithstanding; banks continue to lend up to 90% LTV with fixed discounted term rates of up to 10 years
- **Areas of High Demand:** HD8, HD9, HD3, Colne Valley, Fixby, Thornhill, Birstall, Gomersall, Shawcross
- **House Type, size and features:** 2 bed Bungalows are in very high demand along with and 3 bedroom detached and semi-detached houses, but not in the case of 3 storey town house. Dining kitchen, bathrooms, en-suites and ground floor cloakrooms remain focal points with overall space high on the list of requirements. As volume House builders continue to maximise available land to achieve maximum density there are significant opportunities to build homes which afford a more generous layout. The focus on renewable technologies and thermal efficiency increases as buyers look to reduce running costs and carbon emission. Innovations such as Solar PV and Heat pumps should be established as standard specification. Ease of access from the house to a garden is an expectation.
- **Marketing a new site:** Although Kirklees Council do not have a track record of building homes for sale we do have a clear ambition as place making local authority which should provide a level of confidence in the quality of a new home, although we need to ensure that by association, the market does not confuse council housing with market sale housing. The timing and location of the show home is critical in demonstrating quality and winning confidence with prospective buyers. The offer of involving buyers in off plan design may increase early market engagement and improve reputation as a place making developer.
- **Sales:** Accurately forecasting sales is critical to the success of any market sale site and overall cash flow, there are many factors affecting actual sales including the number of phased releases, the number of units in each phase and the agreed sales targets, that said; we need to be clear that this programme does not look to establish the Council as a commercial developer. The type, location and number of affordable S106 units can have a significant impact on market sales as there remains a stigma attached to certain affordable housing tenures and buyers of market sale may prefer not to live adjacent to affordable units in fear of devaluing their new home, There are a number of legal claims being brought against developers by purchaser of new homes where S106 affordable housing has been located in close proximity and they claim loss of equity in their purchase.

- **Buyer Incentives**, the Government backed `Help to Buy` scheme remains the most effective mechanism of enabling buyers to purchase new homes but depends on the developer or contractor registering to offer the scheme. Rent-to-Buy is becoming increasingly popular but will affect future sales forecasts if purchaser do not exercise the purchase. Council of Mortgage Lenders (CML) regulations may apply and reduce the overall market value of homes if the value of incentives exceeds 10% of the market value. Where possible should consider part exchange and maintain right of pre-emption to buy back the purchasers existing council home.

2.3.0 Risk/Benefit R.A.G Rating

Item	Direct Delivery	LHC (JV with Bridge)	Comment
Lack of Resource and sales expertise	Red	Green	Recruiting to DD resource plan
Sharing Construction development risk	Red	Green	Increased reliance on Bridge Homes expertise
Sharing profit	Green	Green	Significantly higher return based on the DD model and 30 year projections for rental income
Retaining Strategic Control of Assets	Green	Yellow	
Additional Governance and delegation	Green	Yellow	
Retaining control over pace of development	Green	Yellow	
Use of retained profits to tackle hard to develop sites	Green	Yellow	
Achieving 70/30 affordable and market sale split	Green	Yellow	
Place Making, mixed tenure, mixed economy developments	Green	Yellow	
Retaining control over development programmes	Green	Yellow	Control of the pace over construction pace
Responding to Council housing need and accelerating delivery as required	Green	Yellow	
Amount of capital employed and impact in cash flow	Red	Yellow	Reduced risk in LHC – shared investment
Adhering to procurement rules	Green	Green	Long term employment of supply chain for DD may be subject to OJEU rules
Impact on General Fund	Green	Green	LHC reliant on GF lending and capital financing
Building in-house expertise around mixed tenure	Green	Yellow	
Land Sourcing	Yellow	Green	Assumes access to larger land bank through JV, although some may be outside Kirklees boundary

Developing exemplar housing offer to attract market sales			Dependent upon policy compliance, cost/viability
Limited Liability Exposure			Both models present exposure to liability although potentially limited in the JV by guarantee
Transfer of social housing assets to Housing Association			DD retains 100% of the affordable units and not 50% as per the JV model. LHC model assumes WDH retains shared ownership and KC retain social units at 20% of overall units developed
Provide long term skills and training for new construction technologies			DD presents an opportunity to develop a local Modular manufacturing facility to support long term local training and employment for Kirklees citizens

2.4.0 Using an example council owned site the following development appraisal illustrates the commercial benefit of Direct Delivery compared to an LHC (JV):

RM Grylls, Windy Bank Lane, Liversedge.

The former school site (H198) is freehold and allocated in the adopted local plan for residential use, the land can be sold in 2020 (date to be confirmed) and the receipt retained by the council rather than clawed back by government



2.4.1 Site Masterplan:

The sample site does not currently have planning but the following scheme achieves required density at 35 units per hectare and provides a mix of house types attractive for market sale.



2.4.2 Site Details

- Site Area: 8.9 acres / 3.6 hectares
- Density: 126 houses based on 35dph
- Unit sizes: – Adopted average unit sizes, housing types and mix based on Kirklees averages in CIL viability study
Programme – 43 months starting in August 2020 – assumes 3 units per month / sales start 6 months after commencement of construction and continue 6 months after construction.

2.4.3 Development appraisal assumptions

See Appendix 1.0

2.4.4 Notwithstanding the example site, the following sites are currently allocated to the council house programme and in the early stages of stage 1 investigation, no of units are indicative and mixed tenure appraisal not yet undertaken:

Red Laithes Court	15	Council New Build
Raikes Lane	30	Council New Build
Land South of St Thomas Gardens	18	Council New Build

Further sites will be added during 2020/21 as we progress delivery

2.5.0 Summary Financial Appraisal (30 year RP Model)

See Appendix 1.1

2.5.1 Summary Key Comparison

See Appendix 1.2

2.6.0 Risk and Sensitivity analysis: Direct Delivery:

Risk	Impact	Mitigation	Outcome
Not obtaining relevant legal permissions and cabinet approval	The project will not proceed without the relevant statutory permissions	This report outlines the proposal with financial summary that can be used to consult with our in house legal advisors and hence be further inform cabinet	Permission to use the HRA to fund mixed tenure on KC sites
Internal capacity to deliver	The existing resource is not sufficient to deliver a programme of new council housing including mixed tenure and does not take into account the expected increase in operational activity required to deliver expected outputs for the next 10 years	The appointment of 1 development manager, 1 development officer and 1 development graduate and 1 experienced marketing and sales professional – see Resource (section 9). Supply chain; in particular the appointment of an experienced development contractor and design team will increase capacity significantly	Capacity to deliver upto 100 units per annum by 2023
Continued throughput of suitable market sales sites	Although we have a number of council owned sites allocated in the Local Plan, we are yet to agree an allocation to support a long term programme of self-delivery	Agree a pipeline of suitable sites (GF/HRA)	Sustainable pipeline of sites to deliver 100 units per annum
Lack of experience in achieving a high demand market sale product	The market expectation for new homes is specific and differs by location and target market, if we misjudge the market product it may result in stalled sales as has been experienced by a number of Regional RP developers. Reputational damage	Ensure close collaboration between designers and local agents, undertake detailed market analysis to each proposed site to ensure suitable mix and of size/type of units.	Sustainable pipeline of sales and positive cashflow
General lack of market sales experience	Stalled sales, poor cashflow, unsustainable	Lock into a long term partnership with a contractor who brings sales and marketing	Sustainable pipeline of sales and cashflow

	development and impact on surplus	expertise, directly employ the expertise from year 2 of the programme	
Increased Capital funding	Un-supported development programme, and the absence of a debt repayment facility	Develop achievable programme and sales forecast to calculate HRA capital draw down and repayment profile. Mixed tenure (SO) to blend H.E funding and Capital receipt where possible	Adequately funded capital programme
Procurement and reliable supply chain	Delays to programme delivery, poor quality product, increased costs; resulting reputational damage. EU procurement rules	Early market engagement and detailed selection process with realistic and reliable volumes/timescales	Sustainable pipeline of sites to deliver 100 defect free units per annum
Site Development and construction costs	Increased development and construction costs, resulting reduction of surplus/impact in cashflow	Detailed site investigations to de-risk the site and rigid development appraisal criteria with agreed lower IRR thresholds	Managed construction costs within agreed appraisal tolerance
Impact on housing for sale market values due to 'No Deal' Brexit	Speculation of a national slump in the housing market and increases in bank lending rates resulting in stalled sales. Potential impact on borrowing	Option to retain units for various rent tenures. Increased ratio of affordable housing units on high cost sites, increased use of cross subsidy resulting from surplus	Managed impact on sales risk
Retained S106 and impact on market sales values	Negative impact on market sales values and a poor tenure mix resulting from the proximity of S106 affordable units in relation to units for sale.	Detailed master planning and impact assessment to ensure the mix/location of affordable housing meets our aspirations for cohesive mixed tenure sites with minimal impact on residual house values	Successful communities, the right mix of tenure with mixed economy providing appropriate level of assurance to purchasers making investments in new homes
Low uptake on sales or lack of off-plan purchasing	Negative impact on market sales and related cash flow	Well researched, current and reliable housing market assessment (SHMA) to establish the right product, robust marketing strategy with our preferred delivery partner or local agents Early	Sustainable sales pipeline and fluid cash-flow

		engagement with prospective buyers, full adoption of buyer incentive schemes and tailored service (buyer to input off plan design). Develop a bespoke offering and unique housing solution.	
Supply chain failure	Disrupted programme resulting in financial loss, reputational damage and failure to deliver 1 for 1 replacements	Early market engagement to develop strategic relationships with key suppliers. A package of sites ready to deliver with full planning, agreed specification and mix of tenure. Secured funding in place, Phased programme release based on successful delivery of commissioned packages	A sustainable programme of delivery

2.7.0 Market and Peer Group Analysis:

2.7.1 Sheffield Council

Sheffield City Council has set Sheffield Housing Company in 2011, the company is a joint venture with funding from the JV partners, borrowing/finance and Homes England Grant, the majority of the 560 homes built to date are designated for market sale following the typical LHC 80/20 tenure split. The approach is not the same as that proposed HRA model proposed by Kirklees hence no further comparison is possible.

2.7.2 Leeds CC

Leeds City Council has established a 5 year programme to deliver 1500 new affordable homes, which will aim to develop at 300 per annum delivering stock to be managed through the Housing Revenue Account

The programme is delivered directly wherein Leeds CC procure contractors for individual sites or packages of sites, funded through borrowing against the HRA, Right to Buy Receipts, and s106 commuted sums. Leeds is also considering the establishment of Local Housing Company that would enable the delivery of mixed tenure housing.

2.7.3 Bristol CC

Following the example of Sheffield and other LA's; Bristol has set up and LHC (Goram Homes) following Cabinet approval in September 2018, the LHC is held under Bristol Holding Company, again the model differs from the KC proposal and focusses on 80/20 LHC split and aims to deliver housing for sale with the smaller percentage as affordable

In addition to the LHC Bristol CC continue to self-deliver affordable homes through the HRA and are considering building homes for sale under Section 9 Housing Act 1985

2.7.4 York CC

York CC continue to self-deliver affordable homes through the HRA and are considering Passivhaus as the default house standard for thermal performance

2.7.5 Harrogate CC

Harrogate CC continue to self-deliver affordable homes through the HRA and are considering building homes for sale under Section 9 Housing Act 1985

2.8.0 Transfer of Social Housing Assets

2.8.1 The Direct Delivery programme will significantly increase the Council's building programmes and replenish the supply of affordable council housing, however, all new tenants qualify to exercise the RTB after 3 years

2.8.2 In reality the cost floor rules will in the majority of cases put new build council homes out of the financial reach of most tenants. The example of Asquith Fields demonstrates that low income and gross build cost recovery may prevent most tenants completing their RTB applications:

- Cost floor applies to New Build Housing (3 year secure tenancy)
- Transported discount from existing tenancy
- Cost floor applies for 12 years from build; Gross build cost (market values can reduce cost)
- Average tenant earnings; £25k per annum (inflated)
- 36 units completed in 2011
- £109,800 ave build cost per unit
- 4no RTB Applications since 2012
- All applications cancelled due to cost floor rules



2.8.3 Although costs floor rules apply we have considered the transfer of Council Housing Assets to another company, however under the General Housing Consents 2013 we cannot dispose of council housing assets to another company but we could dispose of unbuilt upon land (or in most cases gift the land to a Partner) after which the Partner could build out the units subject to:

2.8.4 ***Selection of "Partner"***

How the Partner would be selected depends very much upon the nature of the Project.

If there is to be a Development Agreement that is caught by Roanne then there will need to be an EU Procurement. (see 2.8.9)

If there is not to be a Development Agreement caught by Roanne then there is no requirement upon the Council to tender a land disposal.

2.8.5 ***Nomination Rights***

When the Council disposes of land and it seeks to have nomination rights that are greater than 50% the approach that the Council has traditionally taken is to require the developing party to grant the Council nomination rights. These are secured by way of a Section 33 Agreement on the Local Land Charges Register and hence bind third parties.

There remains regulatory requirement for all Housing Associations to offer at least 50% nominations to the Local Housing Authority.

In conjunction with the transfer of land we could offer financial assistance to support build cost under the provisions under General Housing Consents 2010 and 2014; assuming the organisation (Partner) has the capability and capacity to design, develop and build out housing or manage them:

2.8.6 *Financial Assistance by way of discount of Housing Land*

Under the General Housing Consents 2014 In respect of Housing Land a Council can give financial assistance by way of discounting the value of that land to any person as long as it is in the context of the land being built out for “privately let houses”.

2.8.7 *Financial Discount by way of discount on general fund land*

Under the General Housing Consents 2010 a Local Authority can give financial assistance by way of discounting the value of General Fund Land up to a maximum £10million per year and then only to registered providers.

2.8.8 *Other forms of financial assistance (not involving the discounted disposal of land)*

The Local Authority has the power to give other forms of financial assistance to any person.

2.8.9 *The Procurement Context*

The Procurement Context for land disposals for Social Housing/Affordable Housing is largely governed by the Roanne Case.

In essence, there has to be a procurement if the terms of the land disposal provides that:-

- (i) The Council has a degree of control over the specification of what is built;
- (ii) The Council has a financial interest in what is built;
- (iii) There is a development obligation in the Agreement.

It has never been fully determined what constitutes a financial interest in the context of selling land to third parties who then build out Social/Affordable Housing. In order to replicate the Fieldhead Project again we would proceed on the understanding that it is subject to the EU Procurement Rules and in particular Roanne hence setting apart from the previously completed Fieldhead project

If we assume transferred units remain under the ownership of the Partner company e.g. Housing Association; the units would still be subject to Right to Acquire (RTA). The recent announcement (Sep 2019) to allow Housing Association tenants to buy a share of newly built homes (starting at 10%), currently a voluntary arrangement, in addition to the current administrations 2015 manifesto to extend full RTB to HA tenants would in practice increase risk of the loss of newly built homes.

2.9.0 *Passivhaus and Zero Carbon Housing*

2.9.1 The United Nations have warned that urgent action is required to address climate change and prevent irreversible damage to the environment. In January 2019, Kirklees Council declared a Climate Emergency and has proposed an ambitious programme of activity to address the emergency. This will require significant societal changes to how we all live and work, with an urgent need to dramatically reduce our emissions and to adapt locally to a changing climate

2.9.2 In June 2019, the Government committed to bringing greenhouse gas emissions to zero by 2050. Consultation on the ‘Future Homes Standard’ (consultation runs from 1 October 2019 to 10 January 2020) proposes to uplift the performance of new build homes in Part L and Part F of the Building Regulations, dealing with the conservation of fuel and power, and ventilation. This is part way towards introducing the Future Homes Standard by 2025, and is a step towards achieving

zero emissions target by 2050. This will be accompanied by interim uplifts in standards before then.

- 2.9.3 Kirklees Council wishes to rise to this challenge and be a leader to achieve this change with our local partner organisations, businesses and residents with the help and support of the national government and regional partners aligned to our corporate ambitions for People, Places and Partners. This will be a challenging ambition but it is also a great opportunity to improve our quality of life and create a borough that is healthier, more sustainable and fairer for everyone. The built environment; in particular existing and new housing play a major part in delivering our ambition to achieve carbon net zero by 2038
- 2.9.4 The Passivhaus Trust stipulate that new build homes should deliver ultra-high levels of energy efficiency by 2025 equating to space heating demand of 15-20 kWh/m²/yr or a 73% reduction over current building regulations
- 2.9.5 As the number of Local Authorities and Registered Providers commit to Passivhaus on new build increases; Kirklees Council are responding to calls from the CEWP to thoroughly investigate and report the benefits of Passivhaus and determine if this is the preferred route to achieving zero carbon housing

- 2.9.6 Although there is a heightened awareness around Passivhaus; between 2015 and 17, following a motion at full Council, officers assessed the potential costs of constructing a Passivhaus development at the former Stile Common school site, Newsome. A feasibility scheme was produced in November 2015 by an accredited Passivhaus architect- Phi Architects- for 22 two and three bed houses. The costs were identified to be significant (circa 27% higher than standard new build) and it was concluded that the project was unviable. Learning from this also emphasised the need to carefully select potential sites for Passivhaus development taking into account for example location, orientation and solar gain.



- 2.9.7 We continue to explore new developments and opportunities (including factory visits to see these first-hand) such as the product developed by Citu a sustainable development company. This however did not quite meet the requirements for the Passivhaus aspiration as although the product provides very low carbon homes this was not certifiable as Passivhaus due to the process associated with certification.
- 2.9.8 Achieving zero carbon homes will require a step change in local design, development expertise and experience. Trialling this design approach across various cities indicates growing experience, although a wide variety of costs and programme management approaches make this difficult to compare. Local cost evaluation suggests that a market Passivhaus solution may not yet be sustained, given high development costs and in some areas of Kirklees, lower sales values.
- 2.9.9 We recognised the most effective way of assessing zero carbon housing at scale, and reducing carbon emissions in Kirklees is to undertake further research and most importantly trial it; we

therefore propose to undertake a pilot social housing development on Council owned land. The pilot will be directly delivered following the formal appointment of a suitably qualified specialist architect to support the project through key stages:

1. Client brief
2. Site selection
3. Design
4. Planning
5. Procurement/appointment of experienced delivery partner
6. Construction
7. Occupation (lifestyle adjustments, whole life costing and maintenance)
8. Performance monitoring and reporting

2.9.10 The Housing Growth team aim to present a report to February `20 cabinet detailing the aforementioned pilot project and in doing so; detail stages 1-3 supplemented with a financial viability and impact assessment. The report will seek to obtain permission to proceed to deliver the project to inform the longer-term zero carbon strategy and dovetail into the overall direct delivery model.

3.0 Implications for the Council

3.1.1 Working with People

The housing growth plan will assess and meet council housing need in Kirklees, the location, design and designation of new housing will be developed around intelligent meaningful dialogue with citizen of Kirklees. Affordable housing will provide diverse, high quality housing solutions shaped through understand of need. Good quality, well designed housing promotes health and well-being of our citizens, mixed tenure housing promotes balanced communities throughout Kirklees. Section 149 Equality Act and equality; Integrated Impact Assessments will identify how specific communities of interest may be affected by decisions considering any potential discriminatory impact on people with protected characteristics.

3.1.2 Working with Partners

Direct Delivery relies on a partnership and multi-agency approach, relationships internally and with external partners are key to success; the Council cannot deliver programmes on its own; partners will play a vital part in shaping delivering and successful outcomes

3.1.3 Place Based Working

A placed based approach is required to understand the impact of new housing on existing communities, existing infrastructures are under extreme pressure, Environmental impacts although assessed through site investigation, are not really discussed with citizens; proposed design of housing should be presented through citizen engagement process to ensure we are not creating dis-functional communities of the future

3.1.4 Climate Change and Air Quality

Any construction activity will invariably increase carbon emission, the build environment contributes 40% to the UK`s overall carbon footprint Housing, The proposal to build new homes will increase carbon emissions in Kirklees significantly; a typical 3 bedroom home built in masonry will take between 50 - 80 tonnes of carbon to construct. Steel, brick and concrete require create large amounts of carbon in their manufacturing process unlike timber.

Assuming any new housing will be built to the equivalent minimum code 4, the typical gas heating need from a 3 bedroom home will emit 2.7 tonnes of carbon annually, electrical appliances/lighting will emit a further 2.8 tonnes of carbon annually

The majority of occupants of new homes will use their vehicles to commute to work and travel for social or domestic purposes; based on a typical 2 car family travelling an average of 39 miles per day (35 miles during the week and an average of 10 miles per day over the weekend) each vehicle will emit an average of 3.3 tons of carbon annually

Assuming a 10 year continuation of the programme of traditionally built new homes detailed in appendix 1; construction activity and occupation is forecasted to generate the following increases in carbon emissions:

Year	Construction (Average tonnes)	Cumulative Occupation/travel (tonnes)	Total (tonnes)
2020/21 – 50 units	3000	220	3220
2021/22 – 75 units	4500	880	5380
2022/23 – 100 units	6000	1760	7760
2023/24 – 100 units	6000	2640	8640
2024/25 – 100 units	6000	3520	9520
2025/26 – 100 units	6000	4400	10400
2026/27 – 100 units	6000	5280	11280
2027/28 – 100 units	6000	6160	12160
2028/29 – 75 units	4500	6720	11220
2029/30 – 75 units	4500	7380	11880
2030/31 - 50 units balance of carry-over from earlier years	3000	7820	10820
2031/32 – balance of 2030/31 programme of occupation		8040	8040
		Total	110,320 tonnes

At this stage we cannot determine the percentage of programme that will be built traditionally compared to Modular and off-site, although we are clear that all new homes will achieve a minimum of code 4 equivalent and where possible aim to achieve a zero carbon output.

We continue to develop our approach to new housing considering all available options to reduce carbon outputs of both construction activity and occupation. The passivhaus pilot is in early stages of development (see 2.9.0) this will inform the longer term viability of overall adoption and implementation, notwithstanding; we maintain a principled approach that considers which measures we will incorporate in our new homes standard in accordance to the local plan and NPPF.

- Locations that reduce travel based on local amenities
- Site selection to ensure maximum benefit from solar gain
- Alternative methods of construction: Pod, timber frame, SIPS
- Use of sustainable materials, sourced locally
- Use of renewable technologies for heating/power and to tackle fuel poverty
- Recycling natural resource to reduce environmental impacts
- Air tightness to ensure the greatest thermal performance and the lowest possible running costs
- Maximised planted areas to offset carbon, improve appearance and create natural habitat

3.1.5 Improving outcomes for children

The Councils approved housing strategy focusses on early intervention and prevention of homelessness; leading to improved outcomes for all households who are at risk of or experiencing homelessness, including households with children, and young people. The council housing programme provides a responsible approach to tackling the ongoing a loss of Council housing

through RTB and hence established 1 for 1 replacement to meet increasing affordable housing demand.

4.0 Other (eg Legal/Financial or Human Resources)

Council can participate in an LLP JV relying on the General Power of Competence under section 1 Localism Act 2011

Procurement will be in accordance with the Council's Contract Procedure Rules and the EU Public Procurement regime.

Although MHCLG removed the HRA borrowing Cap in October 2018, the Kirklees HRA account currently holds £77m of borrowing headroom. The removal of the Cap therefore provides further flexibility to borrow within affordable and prudential parameters to fund the potentially much expanded direct delivery programme.

The Council at this stage has not taken tax advice on either option in terms of Stamp Duty Land Tax and VAT, this will be fully explored following the agreement of the preferred delivery option

Indicative revenue and capital HRA resource implications regarding proposals set out in this report will be factored into the forthcoming annual budget report 2020-23 for member consideration at Cabinet on 28 January and budget Council on 12 February 2020.

HRA Capital Strategic Housing Growth Funding profile: See appendix 1.3

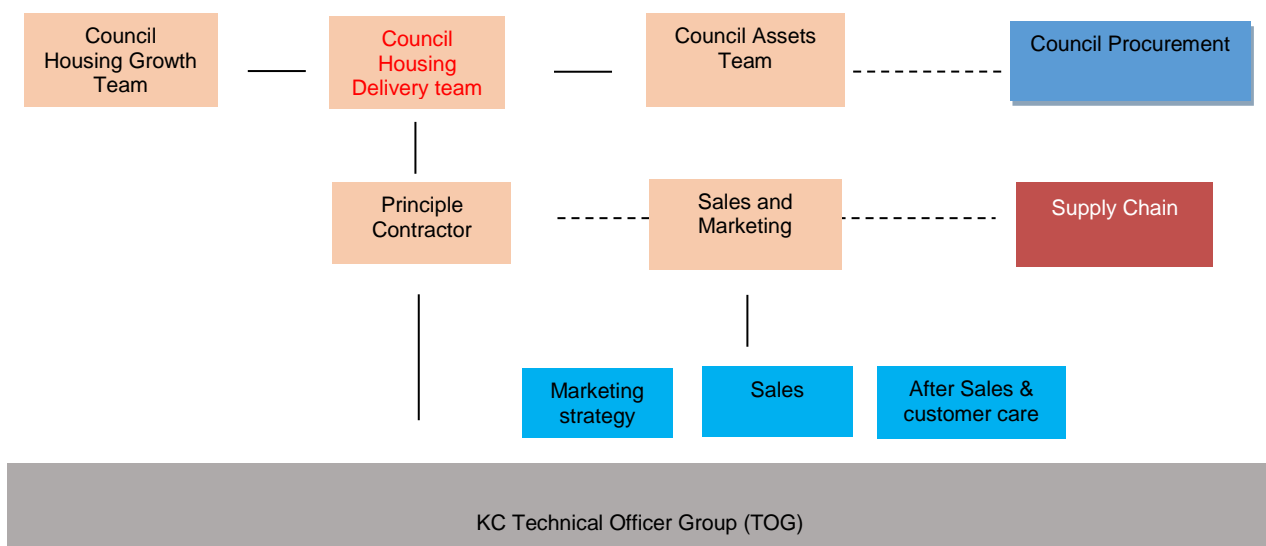
5.0 Resource requirements and costs:

The HRA does not currently have a dedicated housing for sale development function rather an extension of the asset management function which can deliver a modest programme of up to 2 sites for rent based on 7-8 units per site.

Taking into account the proposed outputs for the next 10 years we require the following dedicated resource to deliver forecasted units for both rent and sale

- **1no Housing Development Project Manager: Grade 16**
- **1no Housing Development officer: Grade 12-14**
- **1no Graduate officer (Gen Programme) Grade 7**
- ***1no Marketing and Sales officer Grade 10**

The aforementioned resource will form part of the existing KC Housing Growth function and all resource costs will be fully capitalised against the HRA



*From year 3 of the proposed 10 year initial programme; we expect to appoint full time directly employed sales and marketing resource

6.0 Consultees and their opinions

The Cabinet report appends to a business case in support of Direct Delivery issued to Housing Growth Board Delegates on 18th September 2019. The responses and views of the Board have been considered and taken into account prior to finalising this report. We continue to consult with all stakeholders as we develop the programme ensuring feedback is used to shape delivery

7.0 Next steps and timelines

To continue to develop the pipeline of available sites in tandem with resourcing the team and commencing discussions with preferred framework providers in preparation for contract call-off; we aim to be in position to commence the first mix tenure site in Q2 2020 with an overall target of 50 units completed in the year.

8.0 Officer recommendations and reasons

The report seeks delegated authority to a Strategic and Service Director (Economy and Infrastructure) via the Housing Growth Board to approve all future viable schemes worked up under the proposals for mixed tenure council developments, therein:

- (a) The use of a particular parcel of land for the direct delivery of new council housing
- (b) The appropriation of the land (if necessary);
- (c) The determination of the split between affordable and market sale housing;
- (d) The approval of the quantum of prudential borrowing required for the development in consultation with the Council's Service Director Finance & section 151 officer
- (e) The approval of particular house design e.g. passivhaus, zero carbon
- (f) The approval of particular construction type e.g. MMC or traditional

Although the proposals around a Local Housing Company through JV provide opportunity to utilise established development/sales expertise and the ability to share development risk, they are outweighed when compared to the benefits of direct delivery;

- Retained and absolute strategic control of existing Council assets
- Wholly influencing local place making and exemplar housing design
- Growing our development/mixed tenure expertise
- Building strong reputation and trust in the local housing market
- Delivering an acceleration of new housing delivery to meet local demand
- Establishing pace to suit Council priorities

Stage 1: 2019/20

Members note recruitment and procurement while finalising a schedule of priority sites suitable to deliver the 70/30 mixed tenure programme, Commence delivery in collaboration with preferred contractor to build out the site to lever sales and marketing expertise

Stage 2: 2021-23

Following learning from stage 1 pilot and determine:

- Whether we adopt a longer term strategic partnership with contractor
- Or a site by site procurement and delivery
- Establish annual output targets dependant on a sustainable pipeline of suitable sites

Progress against direct delivery will also be reported back to Cabinet periodically, as part of the broader housing growth update reports received by Cabinet through the year.

Transfer of Social Housing Assets

With regards the possible transfer of assets, further understanding of the options available and detailed consideration of benefit and risk should take place following the agreement of the preferred delivery model.

9.0 Cabinet Portfolio Holder's recommendations

The proposal supports the Council's strategic ambition to deliver a long term supply of new housing which includes a range of affordable tenures. Through good quality and design; we aim to meet overall housing need and tackle fuel poverty while place making.

Direct delivery further supports the regeneration of existing estates providing a rich and diverse mix of council housing and creating places where many generations of Kirklees citizens can call home.

10.0 Contact officer

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Tel: 01484 221000 and ask for Asad Bhatti
Email - asad.bhatti@knh.org.uk

11.0 Background Papers and History of Decisions

Item 10: Housing Delivery Plan: August 2018
<https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=139&MId=5703&Ver=4>

12.0 Service Director responsible

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Supplementary information:

- Appendix 2: RM Grylls, Windy Bank Development Appraisal
- Appendix 3: RM Grylls, Windy Bank Cash flow