



**Cabinet**

**Tuesday, 10 September 2019**

**Allocation of Affordable Housing Capital Budget**

## **Report of the Executive Manager – Neighbourhoods**

### **Portfolio Holder for Housing Councillor R Upton**

#### **1. Purpose of report**

- 1.1. This report will inform Cabinet of proposals to allocate the Council's affordable housing capital budget. This capital budget is allocated to support the provision of affordable housing and consists of the receipts from the sale of the Council's former housing stock, sums allocated in lieu of on-site affordable housing and Section 106 (S106) receipts.
- 1.2. The report builds upon the approved Affordable Housing Review Cabinet report (13 March 2018), the Property Company Options report (14 November 2017) and supports the Empty Homes Strategy 2019-2024 by setting out further options for the Council to support the delivery of affordable housing and its strategy for empty homes.
- 1.3. The report proposes that a number of options for the allocation of housing capital funds are explored.

#### **2. Recommendation**

It is RECOMMENDED that Cabinet:

- a) Approves the principle that the following new options, indicated below and set out in Appendix A, are considered for allocation of capital support from the Affordable Housing capital budget:
  - i) Acquisition of open market property
  - ii) Acquisition of empty property
  - iii) Loans to property owners of empty properties for refurbishment and letting
  - iv) Loans to third parties to support the provision of affordable housing
  - v) Support to ensure council led schemes are policy compliant in respect of the provision of affordable housing

Any chosen option will be subject to the approval of both the Section 151 Officer and Finance Portfolio Holder.

- b) A revised Disposal and Acquisition Policy for Land and Buildings is brought to Cabinet (and then Council), particularly to consider delegated authority for the acquisition of housing property.

### 3 Reasons for Recommendation

- 3.1 The opportunities for the allocation of the affordable housing budget through traditional avenues as set out in the Affordable Housing Review Cabinet report (13 March 2018) have reduced due to a range of external factors (refer to paragraph 4.10) and, as such, the Council needs to review its strategy to allocate these funds for purposes for which they are held.
- 3.2 These additional options provide the Council the opportunity to react with greater flexibility in respect of meeting local housing needs and achieving the best return from its capital budget.

### 4. Supporting Information

#### Affordable housing capital strategy- context and general principles

- 4.1. The Council's affordable housing capital programme supports the provision of new affordable housing. This budget consists of historic capital receipts from the sale of the Council's former housing stock and sums allocated to the Council in lieu of the onsite provision of affordable housing where local planning policies require. Existing options for the allocation of affordable housing funds were set out in the Affordable Housing Review report approved by Cabinet on the 13 March 2018.
- 4.2. Historic capital receipts have been set aside for allocation to affordable housing from sums generated by the sale of the Council's former housing stock to a Registered Provider (RP). Funds allocated in lieu of onsite affordable housing provision on new development sites are known as S106 funds and are ring-fenced by way of the planning agreement (under S106 of the Town and Country Planning Act 1990) relating to the site in question.
- 4.3. The Council's current affordable housing capital budget allocation is set out in the table below.

Year	2019/20	2020/21	TOTAL
S106	474,330		<b>474,330</b>
Capital Receipts	921,670	215,880	<b>1,137,550</b>
<b>TOTAL CAPITAL PROGRAMME</b>	<b>1,396,000</b>	<b>215,880</b>	<b>1,611,880</b>

- 4.4. Over the last few years, the majority of new affordable housing has been delivered on new development sites. Subsidy for these dwellings comes via the landowner/developer as a planning policy obligation and is governed by the S106 agreement pertaining to the site.

- 4.5. The principle of any grant funding for affordable housing is that it is only allocated to support the development or acquisition of land or dwellings where subsidy is not provided via another source.
- 4.6. As such, the main opportunity for the Council to allocate its funds is through the work of its RP partners in identifying and acquiring sites either on the open market or via their own land assets. These partners may then apply for funds from the Council to support the development of affordable housing.
- 4.7. However, open market sites in the Borough command high land values which make it difficult for affordable housing schemes to work financially without unsustainable levels of grant.
- 4.8. As such, traditionally, the most feasible option therefore has been for RPs to develop their own land or public sector land giving them control over the development and the ability to discount any land value in order to improve site viability. The only RP with significant land assets within the Borough is Metropolitan Thames Valley Housing (MTVH), who now own the Council's former housing stock.
- 4.9. MTVH have an on-going programme of developing garage and amenity sites, which can be referred to as the 'garage sites programme'. The Council has awarded funds to support these developments previously and recently set aside £480,000 to fund a further phase of the garage site programme which is going through the planning process.
- 4.10. In the last couple of years, capital grant from central Government via Homes England (formerly known as the Homes and Communities Agency) to support RP developments has become more generous. Additionally, MTVH (as with other RPs) have their own recycled grant funds available which are time limited. As such, MTVH may elect to fund various phases of the garage site re-development programme via a mix of their recycled grant funds and Homes England grant, without the need for any grant from the Council. Therefore, the availability of external funding and the circumstances of the RP at the time will determine whether other sources of subsidy i.e. Council grants or loans are required to bring forward a scheme.
- 4.11. Aside from the fact that it is not ideal to retain budgets set aside to assist in delivering affordable housing without specific schemes in mind, elements of the Council's affordable housing capital budget are time limited (particularly the use of S106 receipts). Funds received in lieu of on-site affordable housing usually have a time limit for allocation, after which time the developer may be entitled to claim back these funds.

### **Proposed new options**

- 4.12. The Council continues to take a pro-active role in respect of the allocation of its affordable housing budget as well as linking more closely with other Council priorities. It is, therefore, proposed that over and above the existing

options available to the Council to fund RPs to develop affordable housing, the Council considers acquiring empty or other open market properties to utilise and/or enter into short-term management agreements in exchange for providing refurbishment loans. These properties will be provided as rental dwellings and will provide nomination rights to the Council.

4.13 The table in Appendix A details each of the new options (i-v) in addition to the existing options (vi – vii) as set out below:

- i) Acquisition of open market property (**NEW**)
- ii) Acquisition of empty property (**NEW**)
- iii) Loans to property owners of empty properties for refurbishment and letting (**NEW**)
- iv) Loans to third parties to support the provision of affordable housing (**NEW**)
- v) Support to ensure council led schemes are policy compliant in respect of the provision of affordable housing (**NEW**)
- vi) Funding of garage/infill site development; and
- vii) Funding of open market site development.

4.14. It should be reiterated that all new options will be subject to due diligence (incorporating the consideration of risks and costs in relation to the particular option) and any acquisition or loan will require approval by the Council's Section 151 Officer and Finance Portfolio Holder. Additionally, the Council's Disposal and Acquisition Policy for Land and Buildings should be revised and brought back to Cabinet, particularly to consider delegated authority for the acquisition of housing property to enable what maybe time-critical transactions allowing for expeditious decision making.

#### **Acquisition and rental agreement details**

4.15. As discussed, acquisitions funded through the affordable housing capital budget would be targeted at empty dwellings in the Borough which would support the Council's empty homes strategy and also generate New Homes Bonus where the property has been empty for more than 6 months. The Council may also look at acquiring any open market dwellings for sale if they offer value, or strategic opportunity.

4.16. The Council does not have its own housing stock and, consequently, does not run a Housing Revenue Account (HRA). The Government, however, allows non-stock owning authorities to directly hold a small number of properties (up to 200) for housing purposes within its General Fund.

4.17. It needs to be noted that any Council, even if it is not operating a HRA, can only directly let residential property on a secure tenancy (or a license if the property is let on a temporary basis which will not be relevant for this purpose). A secure tenancy obviously provides long-term security of tenure and other bestowed rights, such as the Right to Buy (RtB).

- 4.18. However, any new Council acquisition or development is protected in cash terms for fifteen years before the RtB discount can be applied.
- 4.19. The Council could consider some form of arm's length vehicle or joint venture in order to facilitate the letting of the properties on an assured or assured-shorthold tenancy basis. Properties held on this basis, and let on an assured tenancy, would not be subject to RtB. However, given that only a relatively small number of properties would be acquired by the Council, it is proposed at this stage that the Council simply brings the properties into its ownership.
- 4.20. Where a loan agreement is entered into, the Council will not take a leasehold interest, although the property will be charged to the value of the loan. As such, the owner will remain the landlord and the property will be let on an assured-shorthold tenancy between the landlord and the tenant.
- 4.21. The acquisition and loans will be funded in their entirety via the capital budget. No loan finance will be raised against future revenue. As such rental payments will come to the Council as gross income. However, the Council will need to resource the management, maintenance and sinking fund (for future repairs) from the rental income received. Without loan finance to service the properties, it is anticipated this will generate a net income following management and maintenance costs albeit individual business cases will be approved by statutory officers and, as a minimum, also the Finance Portfolio Holder.
- 4.22. As the Council does not currently own housing stock, it does not have a management and maintenance capacity to manage and maintain the dwellings. The Council will need to employ a partner to manage and maintain the dwellings it acquires or enter into a rental agreement. MTVH have indicated a willingness to provide this service.

### **Loans to third parties**

- 4.23. There is an option to provide loans at commercial rates to housing providers. For example East Lindsey DC did so in 2014 for £5m. The main risk concerns the security of counter parties and credit risk ie that interest rates charged should reflect the repayment or potential payment default risk by the third party that has borrowed money from the Council and reflect a commercial rate of return.

### **Support for Council Led Schemes**

- 4.24. The Council continues to look to optimise the use of its own asset base. For example, projects like the development of Abbey Road where the Council is looking to provide some affordable housing. With any such project there are viability risks and it maybe that such capital resources are used to support such projects. Given these are Council run projects and assets, this would be a top priority for the use of such funding.

## **5 Alternative Options Considered and Reasons for Rejection**

- 5.1 The Council could do nothing further and rely on the current funding options. However, this limits the circumstances in which the budget could be allocated and the period this would be spent. This is particularly relevant for sums allocated in lieu of the onsite provision of affordable housing via S106 agreements which have a time limit for allocation.

## **6 Risks and Uncertainties**

- 6.1 The Council does not hold or manage residential properties. In view of this, the Council will need to procure a management partner with mutually agreed terms. MTVH have indicated a willingness to provide this service to the Council but there will need to be sound business cases for all concerned.
- 6.2 If the Council does buy properties, careful consideration will need to be taken regarding risks concerning the management, repairs and maintenance, and potential default on rent repayment compared to the income stream if such properties are rented out. This risk can be transferred to third parties, again sound business cases will be required.
- 6.3 Any loan agreements will be subject to counterparty credit and loan repayment default risks.

## **7 Implications**

### **7.1.1 Financial Implications**

- 7.1.2 As stated, the Council has an affordable housing capital budget, some of which is time-limited. The sum available for allocation is £1.6m of which approximately £0.5m is from S106 receipts and ring-fenced for this purpose. At this stage, £480k has been set-aside for Phase II garage site development.
- 7.1.3 It is currently proposed that any acquisitions/loans would be funded in their entirety by available capital funds. There could be an option of financing some through borrowing against future rental income but this would need to be considered separately.
- 7.1.4 Any additional revenue costs arising from such acquisitions, such as management fees, contribution to a sinking fund for any future capital enhancements or repairs, would be offset against rental income.

### **7.2 Legal Implications**

- 7.2.1 Legal advice would be required to confirm the legitimacy of the structural arrangements by which the Council 'holds' the acquired or leased dwellings. Similarly, advice would be required in relation to any loan or, indeed, any other type of agreement.

### 7.3 Equalities Implications

7.3.1 None.

### 7.4 Section 17 of the Crime and Disorder Act 1998 Implications

7.4.1 None.

## 8 Link to Corporate Priorities

- **Delivering economic growth to ensure a sustainable, prosperous and thriving local economy** – Effective partnership working to increase the supply of affordable housing will meet a range of needs across the borough which in turn will generate economic growth and deliver other significant benefits (New Homes Bonus).
- **Maintaining and enhancing our residents' quality of life** – Strong partnership working will enable residents to have safer, healthier and live longer lives in which they are able to fulfil their aspirations. The continued supply of affordable housing will reduce the instability caused to families and communities by preventing homelessness

## 9 Recommendations

It is RECOMMENDED that Cabinet:

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Any chosen option will be subject to the approval of both the Section 151 Officer and Finance Portfolio Holder.

- b) A revised Disposal and Acquisition Policy for Land and Buildings is brought to Cabinet (and then Council), particularly to consider delegated authority for the acquisition of housing property.

<b>For more information contact:</b>	Donna Dwyer
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<b>Background papers available for Inspection:</b>	None.
<b>List of appendices:</b>	<b>Appendix A</b> – Affordable Housing Delivery Options



## Appendix A – Affordable Housing Delivery Options

Option	Scheme	Description	Deliverability	Strategic fit	Financial and social value/risk
i) <b>New</b>	Acquisition of market properties	The Council acquires properties advertised for sale via estate agents	This is the easiest option in respect of delivery given there will be a willing seller and buyer.	It delivers additional affordable housing. However it does not address issues around empty homes.	<ul style="list-style-type: none"> <li>• Provision of additional affordable housing in areas of high demand</li> <li>• Target specific housing needs</li> <li>• Asset value on balance sheet</li> <li>• Right to Buy risk</li> <li>• Low number of properties likely</li> </ul>
ii) <b>New</b>	Empty homes acquisition.	The Council acquires empty properties identified by the Environmental Health team (Empty Homes).	This will potentially require a lot of lead in work before we are in a position to acquire particularly if there is no voluntary agreement with the owner.	It delivers additional affordable housing and brings empty homes back into use. However the house type is constrained by what empty dwellings are identified.	<ul style="list-style-type: none"> <li>• Provision of additional affordable housing to re-house homeless households</li> <li>• Empty property back into use</li> <li>• Generates New Homes Bonus</li> <li>• Asset value on balance sheet</li> <li>• Right to Buy risk</li> <li>• Low number of properties likely</li> </ul>
iii) <b>New</b>	Loan to property owners of empty	The Council provides a loan to refurbish empty	This will potentially require a lot of lead in	It delivers additional affordable housing and	<ul style="list-style-type: none"> <li>• Provision of additional affordable housing to</li> </ul>

	properties for refurbishment	properties identified by the Environmental Health team (Empty Homes). In exchange for the funds the owner will enter into a loan agreement with the Council which will require the Owner to make the property available for the affordable housing for an agreed term.	work before we are in a position to agree loan terms.	brings empty homes back into use. However the properties will only be available on a short term- 5 to 7 year rental agreement.	<p><b>re-house homeless households</b></p> <ul style="list-style-type: none"> <li>• <b>Empty property back into use</b></li> <li>• <b>Better quality private sector housing via improvement works</b></li> <li>• <b>Generates New Homes Bonus</b></li> <li>• <b>Potential to achieve revenue return on loan interest</b></li> <li>• <b>Management of Loan and default risk</b></li> <li>• <b>No asset value but will get capital back via loan repayment</b></li> </ul>
<b>iv) New</b>	Loan to third parties to support the provision of affordable housing.	The Council provides a commercial loan to a RP to support the development or acquisition of an affordable housing scheme.	Dependent on the appetite of RPs and the availability of site. Will take some lead in time and expense to produce loan documentation	Innovative way to deliver additional affordable housing while delivering a return on the Council's capital.	<ul style="list-style-type: none"> <li>• <b>Provision of additional affordable housing</b></li> <li>• <b>Generates New Homes Bonus</b></li> <li>• <b>Potential to achieve revenue return on loan interest</b></li> <li>• <b>Loan default risk</b></li> <li>• <b>No asset value but will get capital back via loan repayment</b></li> </ul>
<b>v) New</b>	Support to ensure council led schemes are policy compliant in respect of the provision	The Council uses the affordable housing budget to support Council owned or led	Dependent on the availability of opportunities. Likely to take the form of grant	A good way to support the Council to achieve its strategic objectives. Affordable housing can	<ul style="list-style-type: none"> <li>• <b>Provision of policy compliant affordable housing</b></li> <li>• <b>Meets Council's wider</b></li> </ul>

	of affordable housing.	schemes where viability constraints do not allow the delivery of affordable housing at a policy compliant level.	to the RP which is straightforward.	be delivered to Council specification where Council has lead interest.	<b>strategic growth objectives/targets</b> <ul style="list-style-type: none"> <li>• <b>Generates New Homes Bonus</b></li> <li>• <b>Capital receipt</b></li> <li>• <b>No asset value</b></li> </ul>
<b>vi)</b>	Funding of garage/infill site development	The Council provides funding to a RP to develop its own sites.	If sites are available and the RP applies for funds, then this option is very deliverable. However as explained in the report, where land is available RP are choosing other funding sources.	A new development on land owned by the RP allows control of development and therefore the development can be shaped to meet housing needs.	<ul style="list-style-type: none"> <li>• <b>Provision of additional affordable housing</b></li> <li>• <b>Reduces ASB on derelict/low demand garage sites</b></li> <li>• <b>Generates New Homes Bonus</b></li> <li>• <b>Grant per unit competitive (higher numbers)</b></li> <li>• <b>Provision of mixed tenure sites</b></li> <li>• <b>Target specific housing needs</b></li> <li>• <b>No asset value</b></li> <li>• <b>Lost resource to the Council.</b></li> </ul>
<b>vii)</b>	Funding of open market site development	The Council provides funding to a RP to develop its own sites.	If sites are available and the RP applies for funds, then this option is very deliverable. However within the context of land prices in the borough it is very	To a degree the same control could apply as above, although an open market acquisition could be constrained by an existing permission.	<ul style="list-style-type: none"> <li>• <b>Provision of additional affordable housing</b></li> <li>• <b>Brings forward sites to meet the Council's wider strategic growth objectives/targets</b></li> </ul>

			unlikely that open market will be deliverable for an RP as they are choosing other funding sources.		<ul style="list-style-type: none"><li>• <b>Generates New Homes Bonus</b></li><li>• <b>Target specific housing needs</b></li><li>• <b>No asset value</b></li><li>• <b>Lost resource to the Council better funded by s106</b></li></ul>
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