

<b>Subject:</b>	<b>Housing Delivery Options – Living Wage Joint Venture</b>		
<b>Date of Meeting:</b>	<b>16 November 2016 – Housing &amp; New Homes Committee</b> 8 December 2016 – Policy, Resources & Growth Committee		
<b>Report of:</b>	<b>Executive Director Economy, Environment &amp; Culture</b>		
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Housing & New Homes Committee on 21 September 2016 considered a report requesting members recommend to Policy, Resources & Growth Committee support in principle for the Living Wage Joint Venture proposal and delegation of authority to relevant Executive Directors to progress this opportunity with Hyde with reserved matters coming back to Committee for approval. Committee resolved: *That a decision be deferred to the next meeting of the Housing & New Homes Committee to ensure that members can feel fully supportive of the proposals.* Following September Committee further work has been undertaken including: ongoing financial and legal due diligence on the terms of the proposed joint venture; meetings between the council and Hyde's legal teams; further development of key documents; and, additional briefings for Housing spokespersons and their lead members / political groups. Details of briefings are outlined in this report. A comprehensive list of Frequently Asked Questions has also been produced and appended to this report to help inform member decisions (Appendix 3).
- 1.2 The opportunity considered in this report is a proposal from Hyde Housing Association to develop a Living Wage Joint Venture with the council to acquire land and develop new homes for lower cost rental and sale for low income working households in the city. This proposal is informed by the outcome of the Housing Market Intervention options study presented to Housing & New Homes Committee in March 2016. Committee approved the Housing Delivery Options report and agreed to the procurement of legal and other specialist advisers to pursue this work.
- 1.3 The key aim of this project is the provision of lower cost rented housing. Supply of new lower cost rented homes is not keeping pace with demand and there is limited

evidence of market appetite from developers and Registered Providers to deliver this product. There is also potential to generate a long term income for the council through funding returns and/or a margin through lending from the council.

- 1.4 The council has appointed Bevan Brittan LLP as its legal advisors. This report provides an overview of an offer to develop a Joint Venture (JV) for the development of lower cost rental and sale homes for low income working households in the city from Hyde Housing Association. Appendix 1 provides an overview of legal advice to date that has been provided by Bevan Brittan in relation to this opportunity. Appendix 2 provides a copy of the draft Heads of Terms document. Appendix 3 provides a list of frequently asked questions and answers. Appendix 4 in Part 2 of the report provides a summary of the Strategic Financial Viability Model and sensitivity analysis.

## **2. RECOMMENDATIONS:**

### 2.1 That Housing & New Homes Committee:

- i) Recommends the report to Policy, Resources & Growth Committee as out at paragraph 2.2

### 2.2 That Policy, Resources & Growth Committee:

- i) Support in principle the living wage joint venture proposal; and
- ii) Give delegated authority to the Executive Director of Economy, Environment & Culture following consultation with the Executive Lead Officer for Strategy Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:
  - a. develop and negotiate the deal with Hyde;
  - b. agree and authorise execution of the Heads of Terms and subsequently the documentation required to implement the proposed Joint Venture;
  - c. make the appointments from the Council to the management board;
- iii) Note that reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV.

## **3. CONTEXT/ BACKGROUND INFORMATION**

### **Action since September 2016 Housing & New Homes Committee**

- 3.1 Housing & New Homes Committee on 21 September 2016 considered a report requesting members recommend to Policy, Resources & Growth Committee support in principle for the Living Wage Joint Venture proposal and delegation of authority to relevant Executive Directors to progress this opportunity with Hyde with reserved matters coming back to Committee for approval. Committee resolved: *That a decision be deferred to the next meeting of the Housing & New Homes Committee to ensure that members can feel fully supportive of the proposals.*

3.2 Since September Housing & New Homes Committee Council officers, Bevan Brittan (the Council's lawyers) and Hyde have further developed legal documentation, continued to review the financial model and undertaken additional councillor briefings as outlined below:

- Progressed development of legal documents, including Living Wage Joint Venture draft Heads of Terms, following Committee discussion, incorporating: Governance (Reserved Matters, Board, Deadlock, Dispute Resolution); Structure (LLP direct participation; Exit routes; Planning, Allocations Policy, Support services – Council role; Hyde frameworks; VFM assurance; VAT on development).
- Progressed financial matters, including financial model assumptions sensitivity analysis and funding.
- In addition to briefings undertaken prior to the September Committee report, further briefings & updates for members have been undertaken since Committee, including: Estate Regeneration Members Board (17 October 2016); Labour Group (24 October 2016); Green Housing & New Homes Committee Members (31 October 2016), Green Group (31 October 2016); Conservative Housing & New Homes Committee Councillors (1 November 2016). Conservative Group (7 November 2016).
- A detailed response has also been prepared to questions on the potential joint venture with Hyde Housing raised by councillors and political groups. Questions arising from these meetings / groups are provided as a list of Frequently Asked Questions appended to this report.

## **Background**

3.3 Brighton & Hove is a growing city with high housing prices, low incomes, an ageing population and a significant proportion of households with support needs. There are over 23,000 households on the joint housing register, 1,800 households in temporary accommodation and rising homelessness. Social housing makes up only a small proportion of the overall housing in the city with 9.8% of homes owned by the local authority and 5.1% by Registered Providers (RPs).

3.4 Housing demand, growth in the private rented sector and rising rents have an adverse effect on affordability of housing in the city. This has contributed to a decline in owner occupation as those seeking to buy their own home are increasingly unable to take advantage of housing for sale either through cost or as a result of sales of residential accommodation meeting demand from buy to let or other landlord investors rather than prospective home owners.

3.5 This increasing housing demand, reduced public subsidy for affordable homes (in particular no funding for lower cost general needs rented homes) and a shift away from development of rented and family homes remain key challenges identified by the Council's Housing Strategy and Budget. This has an adverse impact upon the Council's ability to respond to the needs of a growing more diverse population and the council's capacity to maintain mixed and balanced communities and retention of lower income working households and employment in the city.

3.6 For stock holding authorities such as Brighton & Hove, the Housing Revenue Account debt cap, reduction in rental income of 1% per annum over four years and the potential impact of Housing & Planning Act (in particular proposed High Value Void tariff) will restrict resources available for new build and regeneration.

- 3.7 The HRA medium term and 30 year financial forecast was reported to Housing & New Homes Committee (13 January 2016) which showed that the Council is nearing its self-financing cap (or limit) on the amount of HRA borrowing permissible for capital investment. For Brighton & Hove this limit is currently set at £156.8 million and the outstanding debt reaches its peak in 2023/24 where the borrowing level is £147.4 million leaving headroom of only £9.4 million.
- 3.8 This position means that the Council needs to look at alternative funding and delivery mechanisms if it is to deliver the new affordable homes the city needs. The council has also been looking other opportunities including those related to the structures researched in the Housing Market Intervention project in order to deliver new homes potentially financed from outside the HRA.
- 3.9 Options to mitigate reduced public subsidy for affordable rented homes and Registered Provider shift away from development of this type of accommodation have been subject to regular discussion and review at our Affordable Housing Delivery Partnership (RPs, Homes & Community Agency (HCA) and council) meetings. In particular, as addressing the acute shortage of affordable rented homes and in particular family housing has been identified as a key priority in our Housing Strategy.

### **Joint Venture with Hyde Housing**

- 3.10 Hyde Housing Association (Hyde), a long standing member of our Affordable Housing Delivery Partnership, has approached the Council with a proposal which could deliver 1,000 new lower cost rental and sale homes for low income working households in the city whilst generating a long term return for the council and Hyde.
- 3.11 The proposed Joint Venture is an attractive opportunity for the Council to accelerate the delivery of lower cost homes for rent and sale for low income working households that the city needs whilst generating a return on our investment. Our legal advisors have provided advice that the Council can enter into the JV without a procurement process for the following reasons: There is no public contract in place between the Council and Hyde – entering into the joint venture itself need not involve the awarding of a contract for goods, works or services; this is public sector co-operation that is permitted under the procurement rules – both parties are public bodies for procurement purposes and could make use of inter-public body exemptions; public contracts that do exist can be awarded without a procurement process in light of what is known as the Teckal exemption – this allows entities controlled by and delivering activity for public bodies to be awarded contracts without a competitive procurement process.

### **The Hyde Living Wage Housing proposal**

- 3.12 This is a proposal for a JV partnership between Hyde and the council to be established as a 50:50 Limited Liability Partnership (LLP). The concept behind the Joint Venture is that the sum of the whole is greater than the value of the individual parts. By combining resources, funding, technical expertise and supply chain, the council and Hyde could deliver more together than individually.

- 3.13 There are risks and opportunities entering into any joint venture and there are a number of important considerations for the council. The first is selecting the right partner with the same objectives. The objectives of Hyde as a charitable housing association whose core purpose is as a housing charity providing low cost homes is a good fit with the council's aspirations to deliver a supply of good quality low cost homes for local people in housing need, including for low income working households essential to the economy of the city.
- 3.14 The joint venture model also enables the Council to access Hyde's commercial developer skills, expertise and resources, in particular the volume buying power of their framework agreements for both consultancy and construction services which would deliver commercial savings, reducing the cost of delivery. Hyde also has substantial experience delivering major regeneration projects as part of its house building programme of circa 1,500 homes per annum. Hyde have an excellent track record of delivery of new homes within the city and the council is confident that the joint venture will deliver the new homes that are so needed in Brighton & Hove.
- 3.15 The cost and risk of developing the homes would be shared equally between the project partners as would the commercial returns.
- 3.16 The JV would deliver 1,000 new homes let and sold on sub-market terms:
- 500 homes at sub market prices which are affordable to rent for working Brighton & Hove residents earning the new National Living Wage (assumed delivery from 2019 onwards); and
  - 500 shared ownership homes affordable to buy for Brighton & Hove residents on average incomes.
- 3.17 Living Wage housing in this context is defined as a home provided at a cost which is at 40% of gross pay to a household earning the new national Living Wage. Current estimates are that this would require an average 40% discount on the market rent. This compares to a 20% discount for the Government's Affordable Rent product.
- 3.18 The Housing Strategy approved at Council in March 2015 highlighted key themes including the availability of affordable family homes, in particular rented homes, and the economic impact of this lack of housing supply on our ability to retain lower income working households and employment in the City. In our Housing Strategy we are committed work collaboratively with Adult Social Care, Children's Services and Health colleagues to meet our shared objectives including the availability of homes in the city to meet the needs of their workforce and those of other employers for whom the recruitment and retention of lower income workers in Brighton & Hove has increasingly become an issue. The proposed Living Wage Joint Venture would align to our strategic aim of contributing to addressing this issue.
- 3.19 The nature of the joint venture would provide the flexibility to sell homes from developments if it was in the JV's best interests. This is not currently envisaged, however the model would allow this flexibility subject to agreement from both LLP Members and within legal constraints on commercial activity.

- 3.20 The LLP will operate within the parameters of a Business Plan approved by both parties and subject to reserved matters. The initial Business Plan would be annexed to the shareholder agreement for the LLP (known as a Member's Agreement) which would be signed by the Council and Hyde. This is an important document that sets out, how the LLP will be run, including amongst other things: how profits are shared, who needs to agree decisions, members' responsibilities, dispute resolution and how members can join or leave the LLP.
- 3.21 It is proposed that the joint venture would have no direct staff, with services contracted in from the partners or from external contractors as necessary. The proposal from Hyde which is currently under consideration and is subject to negotiation is that they would provide development, sales and marketing and letting services to the JV with the Council providing financial and corporate services. There is an indicative allowance for corporate and financial services within the financial model. The provider of these services (which could be the Council) will need to ensure that full costs are recovered and this will be subject to final schedule of service agreed with the LLP. A services agreement would be put in place with each of the partners at the point of forming the joint venture. It is yet to be agreed which party will provide the property management services.
- 3.22 The business case is supported by a Strategic Financial Viability Model (SFVM) to demonstrate a viable financial model and the scale of development that could be supported by an approximate level of investment. The council's Finance team have reviewed the financial model and its inputs, testing assumptions and auditing the validity of the outputs, i.e. carrying out due diligence on the business case and SFVM.
- 3.23 The initial proposal is for £105.47million total investment and Hyde propose that the council and Hyde both provide £52.7million funding to achieve this.
- 3.24 It will also be possible for the council to invest commuted sums it is able to raise from developers in lieu of onsite s106 affordable housing into the JV and therefore reduce the level of cash that the Council has to source from Public Works Loan Board (PWLB) or existing resources. The Council agreed how commuted sums should be calculated in relation to planning applications at the June 2016 meeting of Economic Development and Culture Committee and they are likely to continue to accumulate in the future. However it should be noted that the level of commuted sums collected is only likely to constitute a small percentage of the overall investment requirement. In addition, this is likely to be affected by the introduction of the requirement of Starter Homes on all major planning applications.
- 3.25 Value would be returned to the Council and Hyde through profit distributions and/ or repayment of debt in respect of loans made, with the balance depending on the final agreed approach to funding. Sensitivities and scenarios have been modelled evidencing the impact of various events including rising construction costs, changes to property prices, changes in rental amounts, interest rate assumptions and different accommodation sizes and standards. Profit generated from the JV will be an ongoing revenue income to the council as detailed in the Financial Implications section of this report and associated appendices.
- 3.26 An advantage of the proposed Limited Liability Partnership corporate structure is that the LLP Members retain their own tax profile. In other words the corporate

structure is tax transparent and the profits would be subject to tax based on the corporate tax status and affairs of each individual LLP member.

- 3.27 Investment into the joint venture will be on State Aid compliant terms at a market rate. In the longer term the JV may opt to retain the portfolio but seek an external funder to invest.
- 3.28 The initial estimate of the investment requirement taken from the SFVM is detailed on the table below. The table details the anticipated development costs for each of the five years of the project. The Council contribution is based on half of these costs minus the anticipated annual shared ownership sales.

Year	Costs £M	BHCC £M	Sales £M	JV Debt £M
1	17.13	8.57	0	17.13
2	17.32	7.95	-1.41	33.04
3	45.50	14.28	-16.95	61.59
4	48.60	15.75	-16.95	93.10
5	35.92	9.48	-16.95	112.02
6	7.54	-3.30	-14.13	105.47

#### Governance of the Joint venture

- 3.29 Governance of the JV will be key to ensuring it is able to operate effectively and meet the best interests of the Council and key considerations are outlined in more detail in Appendix 1. The Council will interact with, and be able to exercise control over, the joint ventures activities in three principal ways:
- as a landowner, with contractual rights governing what sites the Council wants to transfer and on what terms;
  - as a member of the LLP, which in broad terms is equivalent to being a shareholder of a company (i.e. an owner of the vehicle);
  - through appointees to the management board, which is comparable to a company's board of directors.

#### Reserved Matters

- 3.30 The Council, and Hyde, will retain strategic control over the LLP's operation through their rights as members of the LLP. This will be achieved through the Council having the right to approve the LLP's annual Business Plan and the requirement that certain listed decisions, referred to as reserved matters, will have to be referred back to it rather than being within the discretion of the management board. It is proposed that this level of strategic control, i.e. the right to make decisions as member of the LLP, is retained by councillors. Reserved matters are likely to include:

#### *Officers and members of the LLP*

- Agreeing the appointment and the appointment terms (including any remuneration terms), or the removal, of any management board member other than one appointed by Hyde or the Council.

- Approving the admission of further members to the LLP or agreeing any rights or restricting attaching to any shares/equity allocated to such new members.
- Agreeing or approving any increase in the maximum size of the management board.

*Future direction and development of the LLP*

- Agreeing to enter into or entering into any debt facility or loan agreement other than the member loan agreements
- Forming any subsidiary or acquiring an interest in any other LLP or participating in any partnership or joint venture (incorporated or not).
- Amalgamating or merging with any other LLP or business undertaking.
- Selling or disposing of any part of the LLP
- Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent)
- Apply for the listing or trading on any stock exchange or market.

*Management of the business of the LLP*

- Changing the name of the LLP.
- Adopting and/ or agreeing any material amendments or variations to a Business Plan.
- Creating or agreeing to create a charge, security or encumbrance over the LLP's assets, interest or income.
- Changing the nature of the business of the LLP or commencing any new business which is no ancillary or incidental to the business.
- Agreeing to enter into or entering into any acquisition or disposal of any material assets by the LLP.
- Giving notice of termination of any arrangements, contracts or transactions which are material in the nature of the business or materially varying any such arrangements, contracts or transactions.
- Appointing and changing the LLP's auditors.
- Agree to make or making any loan (otherwise than by way of a deposit with a bank or the institution, the normal business of which includes the acceptance of deposits or in the ordinary course of business) or granting any credit (other than in the normal course of trading) or giving any guarantee (other than in the normal course of trading) or indemnity outside the normal course of business
- Changing the accounting reference date of the LLP
- Accepting any capital contributions in the LLP.
- Authorising the return of any capital contributed to the LLP to a member.
- Allocating and distributing any profit of the LLP.

3.31 The Council and Hyde will have the right to appoint a management board. The board will be given a role equivalent to a company's board of directors meaning the individuals will have duties to manage the activity of the LLP acting in the best commercial interests of the LLP for the benefit of the Council and Hyde as its



members and will have the task and remit of implementing the Business Plan set by the Council and Hyde and subject to those matters / decisions reserved to the members. The main costs for running the board will officer and member time from the Council and Hyde and costs associated with arranging and holding board meetings. These will need to be covered by both parties in the JV and it is likely that council or Hyde building will be used to host board meetings.

- 3.32 The level of discretion given to the management board will depend on the precise framing of the Business Plan – i.e. how prescriptive or flexible it is – and what the reserved matters are.
- 3.33 The proposal is for a board of six, three to be appointed by Hyde and three by the Council. It is for the Council to determine who represents it on the Board and this could include elected member representation. There are arguments for and against, in the case of the latter largely around potential conflicts of interest, However, in response to feedback from Councillors, officers are working on the basis that the JV Board would require elected member involvement to enable agile decision making. This is ultimately a decision for elected members, for example it could be that the Council's elected member on the Board is the Chair of the Housing & New Homes Committee. The relatively low number of management board members should ensure that the LLP is focussed and operationally flexible, enabling it to deliver the objectives of the Living Wage proposal faster and in a more streamlined way. Potential conflicts of interest will need to be managed and these are outlined in more detail in Appendix 1.

#### Allocations and nominations

- 3.34 The Living Wage proposal concurs with the Council's draft Allocation Policy which proposes an income cap against size of accommodation needed so that those high earners who can resolve their housing in the private rented sector are no longer on the Housing Register whilst retaining those on lower incomes who would benefit from the Living Wage housing. The income caps have been set such that households who could expect to pay more than half of their income on average market rents would be retained on the Register whilst those who would expect to pay a lesser percentage would no longer be on the Register and hence would ensure they do not benefit from Living Wage homes. The Council can also develop a Local Letting Policy for these properties to give priority to those on the Housing Register who are working.

#### Land disposal to the Joint Venture

- 3.35 The Council may dispose of land to the JV on the basis of open market valuation assessed in line with legal obligations in respect of land disposals by councils to secure 'best consideration'. Any land disposal by the council would follow the usual processes and procedures within the council prior to transacting any disposal including Policy, Resources & Growth Committee approval in the normal way.
- 3.36 The joint venture would complete the transaction to purchase the land once it is satisfied that any scheme is viable as evidenced by the individual Scheme

Financial Viability Appraisal (SFVA). Any land purchase by the JV would follow agreed corporate governance procedures within the JV as set out in the initial Business Plan.

- 3.37 For any disposal of land by the Council to the JV, the Council would follow all normal and prudent commercial practices, including obtaining the opinion of a professionally qualified independent valuer, in order to comply with the required legal process for any disposal of an interest in land.

#### Hyde Procurement Frameworks

- 3.38 The proposal is that Hyde's procurement frameworks will be used for construction and professional services relating to the development of the homes. The frameworks Hyde have procured are accessible to the Joint Venture and the Council under procurement law. They have been procured following EU and UK procurement regulations and value for money has been extensively tested through this process. Hyde have shared full details of their frameworks with the project group, who have reviewed this documentation closely and are satisfied that they offer a good option for delivery of JV projects.
- 3.39 Other organisations have joined and used Hyde's frameworks so that they can access the services and reduce procurement timescales and complexity (including other housing associations, registered providers and local authorities). Hyde generally charge for access to their frameworks, and it is worth noting that other local authorities and housing associations are paying Hyde considerable sums to use them. It has been negotiated and agreed that Hyde will not charge these access fees to the JV when the LLP is buying goods or services through Hyde's frameworks. The LLP will also benefit considerably from Hyde's volume buying power, providing efficiencies and economies of scale.
- 3.40 The Hyde frameworks include some suppliers that have previously or are currently in contract direct with the council, including Westridge Construction Limited, the main contractor under the successful Strategic Construction Partnership. Each development delivered under the framework will have its own procurement process within the framework with a mini-competition undertaken between contractors providing a further opportunity to test value for money, ensuring that economically advantageous price is achieved and reducing the risk of anti-competitive behaviour and/or supplier complacency.
- 3.41 The joint appointment of an independent Project Monitor / Quantity Surveyor will provide an additional layer of assurance for both the Council and Hyde as they will provide a full value for money assessment of each contract that is delivered through the JV. Projects will not proceed without assurance that the individual project represents value for money and is in accordance with the overarching Business Plan.

#### 4. RISK AND OPPORTUNITIES

4.1 A number of risks have been identified by the project team and the Council's legal advisors:

Risk	Details	Action
<b>Consents and Best Consideration</b>	Failure to structure arrangements to meet general consents could mean needing to go to the Secretary of State which would create uncertainty over timing and ultimately whether or on what terms consent would be given.	Legal advice has been taken to ensure regulations are met.
<b>State Aid</b>	An issue if contribution of land for no consideration or additional rights.	Legal advice has been taken that advise that the project is compliant
<b>Site identification</b>	Not able to identify suitable sites to transfer to the JV.	Sites are being reviewed and any council sites will be brought to future committees once confirmed as suitable for the JV.
<b>Project financing</b>	Understanding of financial risks and mitigation. Commuted sums may not be realised.	Extensive financial due diligence work has been undertaken to mitigate this risk, including modelling the council's investment assuming 100% borrowing and modelling various scenarios to test the sensitivity of the Strategic Financial Viability Model. Independent financial/treasury management advice will be sought as part of further due diligence review to ensure financial risk exposure to the council is kept to a minimum and benefits of the proposals are achieved.
<b>Governance</b>	The governance structure needs to be fit for purpose in managing delivery of development and does not cause inappropriate conflict issues that affect ability of the Council to manage the JV or the JV to manage its business.	Legal team have developed a range of options for the structure that have been discussed with Hyde.
<b>Planning</b>	Changes to national and / or local Planning policy framework. Including potential impact of Housing & Planning Act, in particular in relation to Starter Homes. Not able to gain planning permission for specific	Early planning advice will be taken on individual schemes. Planning Performance Agreements and Design Panels will be used for individual projects as required.

	schemes or maximise capacity of sites.	
<b>Community opposition</b>	Potential opposition to schemes.	Communities will be engaged in a similar way to they have been for the New Homes for Neighbourhoods programme, for example using Planning for Real techniques.
<b>Tax</b>	Tax implication and liabilities such as SDLT and VAT need to be reviewed in relation to the proposed structure.	Tax advice has been given on the proposed structure and will continue to be reviewed with the progression of the JV proposals. The financial model includes An allowance for SDLT. Legal advice is that VAT liability is low risk as there are well established methods to ensure VAT is not payable of developments. Legal advice is that the council can directly enter the LLP, therefore the returns to the council would not liable for Corporation Tax. Counsel advice has been sought to confirm this.
<b>Policies and standards</b>	The current proposals do not fully meet the council's Affordable Housing Brief standards in terms of unit size, mix, Life Time Homes and percent of wheelchair accessible units. However the proposal does address issues of housing supply and in particular the provision of lower cost rented homes.	Sensitivity analysis has been undertaken on a range of potential changes in relation to these policies.
<b>Housing Market</b>	Impact of any future economic uncertainty on the housing market and construction costs will be monitored. A significant fall in the housing market or increase in construction costs may require additional borrowing or increased percentage of sales.	Sensitivity analysis has been undertaken on a potential drop in house prices and increase construction costs. House prices would have to fall significantly to incur a loss on shared ownership sales.

## 5. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 5.1 The Council has a number of existing options to deliver of new lower cost homes in the city including: continued work with our Affordable Housing Development Partnership; our New Homes for Neighbourhoods Programme (subject to Housing Revenue Account borrowing Cap); joint work with Planning in support of delivering Planning Policy Affordable Housing Requirements; freedoms and flexibility to accelerate housing delivery sought as part of Greater Brighton Devolution proposals. For the reasons outlined in

this report the Council has also been investigating a number of additional delivery options in order to find a range of mechanisms to increase the supply of affordable housing in the city. This includes the work undertaken in the recent Housing Market Intervention report by Trowers & Hamlins and Savills, as well as the JV proposals from Hyde Housing.

5.2 Alternative options that have been considered are provided in the list below. It is likely that a range of delivery options will be progressed in the longer term in order to maximise the delivery of new homes. Individual proposals would need to be agreed by relevant committees.

- Wholly owned council vehicle e.g. Housing Company
- JV with a Registered Provider
- A joint venture procured under The Public Contracts Regulations 2015
- Disposal of sites to private developers
- Do nothing

## **6. COMMUNITY ENGAGEMENT & CONSULTATION**

6.1 General consultation on our approach to stimulating new house building, making best use of our Housing Revenue Account (HRA) assets and estate regeneration through the New Homes for Neighbourhoods programme has been undertaken with councillors, council tenants and leaseholders through reports and presentations to Housing & New Homes Committee.

6.2 Consultation with residents and ward councillors on specific schemes and sites will require a similar level of community engagement as with the existing New Homes for Neighbourhoods Programme, for example Planning for Real techniques. This has followed a comprehensive process with ward councillors, residents and other stakeholders engaged and consulted at all key stages of individual projects. Consultation will also be undertaken via the Planning process.

## **7. CONCLUSION**

7.1 The offer from Hyde to establish a Joint Venture company provides an excellent opportunity to combine resources and expertise to make a significant contribution to tackling the city's housing crisis by delivering additional lower cost homes for sale and rent to low income working households. It is considered that Hyde's track record of delivery, along with their scale and experience will enable the council to deliver new homes that represent value for money and that are of good quality.

## **8. FINANCIAL & OTHER IMPLICATIONS:**

8.1 This report sets out financial modelling in the form of the Strategic Financial Viability Model (SFVM) to develop a Business Case for the development of 1,000 new homes in a Joint Venture with Hyde. Although the overarching aim of this proposal is to provide 1,000 new homes at no net cost to the council (through any

surpluses financing the debt), the current model also provides the council with a positive return after repayment of debt.

- 8.2 The recommendation therefore in this report is to support in principle the living wage proposal and give delegated authority to develop and negotiate the deal with Hyde, agreeing the Heads of Terms and other principle documentation to implement the proposed Joint Venture. If this recommendation is approved, finance officers, as part of the JV project team, will continue to review the SVFM and ensure financial due diligence is followed throughout the process to ensure financial risk exposure to the council is kept to a minimum and benefits of the proposal are achieved. This will include obtaining independent financial advice to support the council through the negotiations and implementation of the Joint Venture.
- 8.3 It is anticipated that the cost of this independent financial advice will be met through the capital budget of £0.151 million, which was approved for legal and financial advice for Housing Delivery Options. If there are any significant variations to costs, this would be reported and approval sought through the councils budget management process.
- 8.4 Officers have reviewed the SFVM for the Hyde Joint Venture proposal, which includes a review of its inputs, testing of the assumptions and auditing the outputs, and have carried out various sensitivity analysis of the SFVM. Part 2 of this report (Appendix 4), includes a summary of the financial model results, main assumptions used and sensitivity analysis that has been carried out.
- 8.5 The JV proposal requires £105.47 million total investment to develop 1,000 new homes over a 5 year period. The proposal is that Hyde and the council provide 50/50 funding of £52.7 million each to fund the investment requirements.
- 8.6 The council has yet to decide how it will fund its investment into the Joint Venture and this decision will be informed by the structure of the LLP (including whether the council directly enters into the LLP or through a wholly owned company). The council's investment of £52.7 million will be financed mainly from borrowing and some commuted sums. The initial financial modelling carried out assumes the council will undertake borrowing to fund its equity investment, this shows that the returns on investment will achieve surpluses to the council after financing costs of borrowing (both interest and capital repayments). The financial modelling shows that the council's share of surpluses are forecast to total £221.4 million over 64 years with a net present value (NPV) £37.6 million (i.e. the return at today's values).
- 8.7 How the council enters into the LLP and the terms of funding could impact on the amount of forecast return to the council, which could reduce the cash surplus after borrowing costs and corporation tax liability. Sensitivities modelled in appendix 4 show that returns to the council would still be positive and are therefore still recommended. One of the principal documents to be developed is the Members' Agreement which will govern the commercial terms of the joint venture and how the two parties will jointly run and fund the LLP.
- 8.8 The table in paragraph 3.28 provides the forecast investment requirement for the JV profiled over the first 5 years. Any borrowing undertaken by the council to fund

the council's share of investment will need to be included councils capital borrowing limits which are approved Policy, Resources and Growth Committee.

- 8.9 The council will need consider how it is going to cover the financing costs of borrowing during the construction stage and include this in its medium term financial plans. This will be required to be funded through the General Fund and the best economic option for this interest cover will need to be considered as part of the council's Treasury management decisions. Initial estimates of the total cost to the General Fund could be in the range of £0.023 - £0.045 million over a 4 year period.
- 8.10 The reserved matters will include any Business Plans and disposal of land/sites to the JV and will be reported to appropriate committees for approval. Each development will be have its own viability model and will only proceed if it is consistent with the approved overarching Business Plan .
- 8.11 As with other new developments in the city, the council will also receive income associated with the development of these 1,000 new homes. S106 income is estimated in the region of £6.0 million. It is also estimated that the delivery of an additional 1,000 properties in the city would raise in the region of £0.830 million in council tax income per annum, this is a prudent estimate based on a number of assumptions such as council bands, discounts applied and assumed council tax increases. It is difficult to assess the additional revenue relating to the New Homes Bonus scheme as the Government is amending the scheme to sharpen the incentive whilst reducing the overall funding, including looking at a maximum of 4 years payments instead of 6 years but potentially could go as low as 2 years. Under the current scheme, the council could receive a maximum of £1.25 million per annum over 4 years for delivery of 1,000 properties, if these were over and above the number of properties that fall out of the scheme or potentially receive a significantly reduced sum.

Finance Officer consulted: Susie Allen

Date: 07/11/16

Legal Implications:

- 8.12 As set out in the body of the report, the council has appointed Bevan Brittan LLP as its legal advisor and continues to provide advice to the council in relation this matter. The legal advice so far is set out in the body of the report as well as in the Appendices attached to this report.

Lawyer consulted: Jo Wylly

Date: 7/11/16

Equalities Implications:

- 8.13 An increase in housing supply will extend opportunities to provide new, well designed homes to accommodate local households on the Housing Register who are in housing need.

### Sustainability Implications:

- 8.14 Attaining high sustainability standards is an important in delivering homes that are energy efficient, minimise carbon emissions and reduce water usage. Addressing fuel poverty and reducing total costs of rental or ownership is also an important consideration.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Bevan Brittan advice to BHCC on the Joint Venture proposal
2. Draft Heads of Terms
3. Frequently Asked Questions
4. Part 2 Summary of Strategic Financial Viability Model and sensitivity analysis (see item 46 on Part Two of the agenda)

### **Documents in Members' Rooms**

None

### **Background Documents**

1. Housing Delivery Options - Housing & New Homes Committee Report 2 March 16
2. Housing Delivery Options – Policy & Resources Committee Report 17 March 16



### Crime & Disorder Implications:

- 9.1 The development of Special Purpose Vehicle and / or Joint Venture partnerships offers the opportunity to provide new, well-designed homes which link to the council's wider regeneration aspirations for the city, including the council's economic development and sustainability objectives. Well-designed urban housing has been shown to influence the rate of crime and disorder as well as the quality of life for future occupants.
- 9.2 Vacant sites can sometimes attract anti-social behaviour. With careful planning, the future development of these sites is likely to improve the safety of existing neighbourhoods by reducing crime and the fear of crime.

### Public Health Implications:

- 9.3 There are strong links between improving housing, providing new affordable homes and reducing health inequalities. Energy efficient homes which are easier and cheaper to heat are likely to have a positive influence on the health of occupants of the new homes.

### Corporate / Citywide Implications:

- 9.4 Increasing Housing Supply is a City Plan and Housing Strategy priority. In particular, meeting our housing target of 13,200 new homes in the City by 2030.
- 9.5 In addition, in our Housing Strategy (2015) priority of increasing housing supply to meet identified needs, we are committed to work collaboratively with Adult Social Care, Children's Services and Health to reduce long term social care cost pressures and address issues arising with recruitment and retention of lower income staff in the City essential to the operation of these services.
- 9.6 In exploring Housing Delivery Options we are also working in support of the following Corporate priorities:
  - **Increasing Equality**- Coordinate services and spending better between public services to improve equality.
  - **Economy, Jobs and Homes** - Enable development of new, affordable homes, working with government, Registered Providers and other partners to maximize investment.
  - **Health & Wellbeing** - support for key worker housing to meet Health and Social Care employee requirements.
  - **Contributing to the Medium Term Financial Strategy** - Maximising New Homes Bonus and Council Tax revenue resources through improving housing supply; Ensuring Housing investment aligns with the Corporate Plan priorities.
  - **Greater Brighton** – Accelerating housing delivery through exploring housing market intervention / housing company models at a Greater Brighton level. Delivering activity alongside other initiatives and ensuring that the

strength of the housing market is captured to meet local needs including housing type and tenure

9.7 The JV will bring a number of benefits to the city and council including:

- 1000 new affordable homes
- Potential long term revenue income from surpluses
- Regeneration of key sites and public realm improvements
- Each new home has potential to generate new Council Tax and New Homes Bonus
- Potential £3 of economic output for every £1 of public investment based on national calculations
- Apprenticeships and training