

To: Cabinet and Council
Date: 29 May 2019 Cabinet
 22 July 2019 Council
Report of: Head of Housing services
Title of Report: The future strategic direction for the Council's group of housing companies

Summary and recommendations	
Purpose of report:	To consider and approve changes to the arrangements between the Council's group of Housing companies and the Council's Housing Revenue Account for the delivery of affordable housing in response to recent government policy changes and to agree to a review of future Oxford City Housing Limited (OCHL) development with a view to expanding activity and accelerating affordable housing delivery.
Key decision:	Yes
Cabinet Members:	Housing (Building Better Homes) and Executive Member for Finance and Asset Management
Corporate Priority:	Meeting Housing Needs
Policy Framework:	Housing and Homelessness Strategy.
Recommendations: That Cabinet resolves to:	
	<ol style="list-style-type: none"> 1. Agree that the Oxford City Housing Limited group of companies (OCHL) continues with the current development and acquisition programmes as detailed in paragraphs 9,12 and 14 of this report; 2. Agree that the Council's Housing Revenue Account from this date onwards purchases and manages the social rented and shared ownership units (with the exception of the Barton Park units);
	<ol style="list-style-type: none"> 3. Recommend to Council to increase the HRA capital programme by £45.303m so that adequate additional budgetary provision is made available for the acquisitions to take place (see Appendix 1); 4. Recommend to Council to approve a revised HRA budget and Business Plan that incorporates the new acquired dwellings that

impacts on rental income, maintenance spend, interest payments, debt redemption activity and other matters as set out in Appendix 2;

5. **Recommend to Council** to approve the re-phasing of the loans from the General Fund Capital Programme in relation to the borrowing activity of OCHL over the MTFP period 2019/20 to 2022/23(see appendix 1)
6. **Agree** that delegated authority is given to the Assistant Chief Executive in consultation with the Head of Finance and the Head of Law and Governance to approve and facilitate the agreed purchase by the HRA of all affordable housing units at the OHCL development sites.
7. **Authorise** Phase 2 of the review of the role and future activity of OCHL and the detail of the review as set out in paragraph 17 of the report; and
8. **Grant delegated authority** to the Assistant Chief Executive in consultation with the Head of Finance and Head of Law and Governance to approve the sale of sites as set out in the OCHL business plan to OCHL providing that such sales comply with the mechanism set out in paragraph 31 of this report and s123 of the Local Government Act 1972, and are made on the basis that following development all affordable housing units at the sites would be purchased back by the Council through the Housing Revenue Account.

Appendices

Appendix 1	Revised HRA and General Fund Capital Programme
Appendix 2	Revised Housing Revenue Account
Appendix 3	Trowers Legal Advice - Exempt

Introduction and background

1. The Council's City Executive Board on the 17th March 2016 agreed to set up a housing company to be wholly owned by the Council with a primary aim of building and owning social housing. This was in response to changes in Government policy namely the introduction of four years of rent reductions and a high value asset levy, which taken together severely restricted the Council's ability to continue with its ambitious council house building programme. This followed on from a successful programme of new build delivering 113 units

funded mainly from the Council's Housing Revenue Account (HRA), together with grant from the Homes and Communities Agency's (now Homes England) Affordable Housing Programme. The housing company group set up by the Council comprises three companies, a holding company, an investment company and a development company.

2. The City Executive Board and the OCHL Shareholder have approved a development and acquisition programme and business plan to deliver 572 new homes over the period 2018 to 2026. This includes the purchase from the Council by OCHL of the social rented homes being developed at Barton Park by Barton Oxford LLP (BOLLP).
3. The table below summarises progress with the development sites and so far 22 of the 95 social rented units in the first phase of Barton Park have been handed over.

Scheme	Number of homes	Status	Estimated Completion
Rose Hill	43 (all affordable)	Planning permission obtained – build contract signed with Feltham	Nov 2020
Warren Crescent	10 (all affordable)	Planning permission obtained – build contract signed with Leighfield	July 2020
Elsfield Hall and Cumberlege Close	35 (18 affordable)	Planning permission obtained – procurement of contractor underway	Dec 2020
Between Towns Road	38 (19 affordable)	Planning permission granted at committee – called in for review. Procurement of contractor underway.	Dec 2020
Harts Close	2 (both affordable)	Planning permission	April 2020

		obtained – price being negotiated with contractor	
Lucy Faithfull House	36 (18 affordable)	Pre planning application underway	April 2021
Underhill Circus	36 (18 affordable)	Pre planning application underway	Sep 2021
Edgecombe Drive	7 (all affordable)	Pre planning application underway	Aug 2020
Bracegirdle, Mortimer, Broad Oak	8 (7 affordable)	Planning permission obtained, tenders received and being assessed	July 2020

4. Recent government policy changes have removed restrictions on the ability to borrow within the HRA. This necessitates a review of the approach previously adopted by the Council and the future role for OCHL (of which the Council is the shareholder) with respect to affordable housing delivery.

Review phase 1

5. The objectives of the review have been to
 - Maintain the existing social housing new build programme.
 - Maximise the potential to expand and accelerate the programme through using new borrowing flexibilities
 - Protect the assumed position in the Medium Term Financial Plan (MTFP) and explore the potential for an increased contribution from OCHL, if financially prudent and affordable for the company.
 - Provide a more efficient and coherent model for the management of the Council's social housing stock
6. OCHL's business plan continues to reflect the position agreed by the Council namely
 - A development programme of Council owned sites that would be sold to OCHL and would deliver an estimated 207 mixed tenure properties including external sales with the remainder of the dwellings being owned by OCHL long term and managed by Oxford City Council on behalf of OCHL via a Service Level Agreement (SLA).
 - A programme of acquisition from the Council of 354 social rented units at Barton Park developed by BOLLP

- A funded trickle transfer of 5 HRA voids each year for the first 5 years of the business plan with an aspiration that this would continue thereafter to effectively create larger units and/or new units, where land footprint allowed.
7. The Council's current MTFP and Treasury Management Strategy agreed at Council in February 2019 reflect this base position
 8. The lifting of the HRA debt cap raises the question of whether continuing to deliver affordable housing through OCHL is necessary or advantageous, since expanded borrowing capacity means it could now be done directly from within the HRA. However there are a number of advantages to a continued role for OCHL, and the potential disadvantages in undertaking all activity through the HRA are as follows:

- **Protection from future government policy changes.**

The delivery of developments of significant value and the associated long term borrowing plans require certainty. It is clear that even since the introduction of self-financing, the Government has continued to interfere with the financial elements of Local Authorities' HRAs. The now retracted high value void levy and the imposition of rent reductions being examples of this. This lack of certainty with regard to future funding places future supply delivery at risk from potential future Government policy changes.

- **Greater opportunity for diversifying housing mix.**

Whilst Local Authorities do have the ability to undertake mixed development activity, the current arrangement allows greater opportunity for OCHL to diversify into the development of other tenures such as sub market rent in order to meet the housing need of a wider group.

- **Recovery of funds already invested**

Approximately £1m of set up costs incurred to March 2019 by OCHL are planned to be covered by future sales receipts and this has always been part of OCHL strategy and business plan.

- **Contribution to the MTFP**

There would be a significant negative impact on the Council's current and on-going MTFP.

- **Balancing risk**

It completely de-risks the development activity out of the HRA and therefore does not impact on the investment in and the management and maintenance of the Council's existing stock.

9. It is therefore proposed that OCHL continues with the current development and Barton acquisition programme

Management of housing stock

10. The additional HRA borrowing headroom provides an opportunity for a more efficient and coherent model for the management of the Council's social housing stock and for OCHL to concentrate almost exclusively on development. The

Council through its HRA would buy the social rented and shared ownership units from OCHL. This is a tidier position in that tenants would be clearer with regard to rights and responsibilities. The Council would need to build capability to manage shared ownership which it would in any event need to do on behalf of OCHL and work is underway in preparation for this. The exception to this however is that the acquisition and ownership of the Barton units would remain with OCHL as this purchase is integral to meeting existing MTFP assumptions and the timing of handovers on the first phase. Another considerable advantage of this option is that it would avoid the need for OCHL to establish a Registered Provider subsidiary. This is because grant provided from the Growth Deal required for a number of sites to deliver a minimum of 50% affordable housing could now be drawn down through the HRA being an automatically registered entity.

11. It is therefore proposed that OCHL will continue with the current development programme with the HRA purchasing the social rented and shared ownership units. Barton Park social rented units would continue to be acquired by OCHL.

Transfer of voids

12. The HRA ‘trickle’ transfer of 5 voids per year to OCHL was initially agreed for two main reasons. Firstly the HRA had developed an initiative to identify void properties with the potential for extension and /or development. The previous government policy changes that negatively impacted the HRA threatened to affect the continuation of this initiative so the activity was transferred to OCHL. The second reason was to provide income back to the HRA (through purchase by OCHL) to help fund the high value asset levy; this initiative has now been abandoned by Government. It is therefore proposed that the transfer of voids that are not suitable for development is ceased after the 2018/2019 financial year as there is now no perceived benefit and it adds complexity in housing management terms. It is proposed the initiative to extend or redevelop voids should continue with OCHL in order to deliver larger units. Experience shows that there are only a small number (3-4) suitable each year. It should be noted that this activity could be constrained as the Council has a Government imposed limit of 5 units or pieces of land that can be transferred each year under a general consent. If the limit of 5 units transferred from the HRA to OCHL was reached in any one year then as a fall back option the development could alternatively take place within the HRA

Potential future OCHL development sites

13. The Council is continuing to bring forward additional potential sites and has appointed professional teams to assess the feasibility of the sites listed below with further site feasibilities currently being tendered.

Hill View Farm	c80 units
Goose Green	c60 units
Bertie Place	c30 units
Redbridge Paddock	c175 units
Westlands Drive	c15 units

These can either be developed using funding directly from the HRA or by OCHL and subsequently sold to the HRA. Cabinet will receive a future report for consideration of the most appropriate route following the completion of phase 2 of the review and this will be aligned to the 2020/21 budget setting timetable.

Changes to OCHL programme

14. In addition there are three sites that were originally in the OCHL programme, namely Bracegirdle, Mortimer and Broad Oak (8 units of bungalows), that were transferred back to the HRA as they were potentially to be in receipt of Homes England grant which OCHL could not draw down. The grant eventually was not forthcoming. However, due to the removal of the HRA debt cap, it is proposed that these be added to the current OCHL development programme with the completed affordable units to be purchased by the HRA. This enables grant to be accessed from the Growth Deal.
15. The proposed changes at paragraphs 11, 12 and 14 of this report will require the agreement and approval of changes to several MTFP related elements (see table in financial implications section) an updated HRA Business Plan and HRA capital programme (see Appendices 1 and 2) and for the Shareholder to agree a revised OCHL Business Plan. Current estimates suggest that even after undertaking the above changes in OCHL strategy and with the remaining MTFP assumptions unchanged, the return of resources back to the Council potentially via loan interest and service level agreements (SLAs) income OCHL can continue to meet its MTFP obligations. In summary the Council's General Fund capital budget will increase with regards to the re-phased OCHL borrowing and it will continue to receive in the current MTFP period 2019/20 to 2022/23 all the expected OCHL returns, albeit potentially profiled slightly differently. The HRA will similarly experience increases to its capital programme for the purchases of dwellings and the HRA itself will be impacted with associated changes in rental income, revenue expenditure and interest and loan payments.
16. Given the increased HRA borrowing potential, officers have also been examining the opportunity of delivering additional affordable units for the Council by the HRA purchasing some of the market sale units on sites within the current development programme. The HRA has the financial strength to acquire additional units and is much better placed to do so than OCHL which is already highly geared given its debt position and limited assets. An additional advantage is the HRA being a regulated entity has the ability to draw down Growth Deal grant and give a greater confidence to delivery of the year 2 Growth Deal commitments. It is estimated that 37 market sales could be converted to 37 shared ownership properties in the HRA in this way and would require the HRA to increase its capital programme by a further £18.090m.

Review of future role and activity of OCHL

17. The Council is continuing to review how it can accelerate the delivery of affordable housing units, the development of alternative tenures to meet housing need and support economic growth as well as meeting its MTFP commitment.

OCHL has recently recruited an interim managing director to lead a 6 month review feeding into the 2020/21 budget setting, with the following objectives:

- Examine the resources and expertise currently available to the Housing Company and how it is organised and make recommendations on what is needed to improve the pace of programme delivery.
- Develop a delivery programme for the next batch of Council sites that have been identified as having potential to be delivered by OHCL.
- Develop a viable proposition for alternative tenure offer in addition to social rent, including an affordable Private Rented Sector (PRS) offer.
- Given the finite number of Council owned development sites appraise opportunities for an expansion of OHCL's activity, including potential purchase of land for development, commission the required work to identify potential sites and develop costed proposals for these sites.
- Explore delivery vehicle options and make recommendations for appropriate partnership arrangements and subject to agreement, take forward the development of the partnership(s).
- Develop proposals and make recommendations for appropriate governance of the Housing Company, including additional Board Directors and clarity about the relationship with stakeholders.

Financial implications

Medium Term Financial Plan

18. The 2019/20 approved budget and MTFP elements relating to the housing company are predicated on the previous OCHL strategy, namely the company would develop and then retain, manage and maintain the non-private sales properties on all the development sites as well as purchasing and managing the Barton acquisitions. The associated long term company borrowing that would consequently be required and represented in the then phasing of estimated activity, produced a total expectation of resources to be returned to the Council from OCHL and this is reflected in the current MTFP 4 year period (2019/20 to 2022/23) approved at Council in February 2019.
19. The revised OCHL strategy to now sell the dwellings it was previously going to manage to the Council's HRA has meant that along with updated phasing of the development activity since the approved budget; the housing company returns to the Council's MTFP have inevitably changed. The table below confirms that OCHL is still able to meet its current MTFP obligations as originally planned with a modest additional £615k forecast over the four year period. In practice given the size of the increased capital programme and the intricacies of additional borrowing it would be prudent not to account for this additional income in the MTFP at this stage. Members should also note that it is only the OCHL elements of the MTFP that have been re-run. The rest of the MTFP assumptions

not related to this report will be updated during the 2020/21 budget exercise that will start in late summer 2019.

20. Members should note that at the end of the MTFP period the 2022/23 annual expected return from OCHL is gross c. £2.3m. In order to meet this level of return each year to support the MTFP it is essential a continuous on-going year-on-year programme of development is identified, undertaken and delivered by OCHL. Thus the work of securing future sites both inside and outside of Oxford, the identification of more commercially orientated opportunities and the exploration of joint venture partnerships must be considered as is the potential of extending tenures to satisfy the housing needs of other groups in Oxford e.g. key workers etc.

A summary of the revised MTFP movement position for 19/20- 22/23 is given in the following table:

Proposed Strategy to Meet MTFP Obligations	£	£	£	£
Request from MTFP	(603,681)	(930,648)	(1,612,844)	(2,271,753)
Funded by:				
GF SLA's	(256,781)	(264,484)	(272,419)	(280,592)
Loan Interest Payments	(994,000)	(2,215,000)	(1,263,000)	(1,168,000)
	(1,250,781)	(2,479,484)	(1,535,419)	(1,448,592)
Movement in MTFP Cost of Borrowing	745,761	357,364	(218,196)	(343,898)
Bal b/fwd	138,506	237,167	(954,305)	(1,095,076)
(Over)/Underpayment In-Year	98,661	(1,191,472)	(140,771)	479,263
Bal c/fwd	237,167	(954,305)	(1,095,076)	(615,813)

Housing Revenue Account

21. The current financial position of the HRA, despite the continuation of the 4 year 1% rent reduction and additional spending commitments e.g. increasing Tower Blocks etc. the account has nonetheless built up some healthy reserves for future spend and is yet to undertake any headroom borrowing. With the debt cap now removed the opportunities to acquire more social housing to be managed within the HRA now transpires and it is this strategy that the Council is now pursuing.
22. The HRA will acquire newly built properties effectively de-risking the development activity out of the HRA. It is estimated that the increase in the HRA capital budget will be £3.460m in 2019/20 and £41.843m in 2020/21.
23. Given the availability of other sources of capital funding to the HRA the additional borrowing element needed by the HRA to fund the proposed acquisitions is £1.795m in 2019/20 and £11.385m in 2020/21. A comparison of

the revised HRA revenue and capital positions with that recently approved for 2019/20 is exemplified at Appendix 1 and 2.

24. The above activity includes the additional HRA acquisitions arising at the Between Towns Road site, where the HRA is also buying those properties originally earmarked for private sale. This is also to continue to support the Oxfordshire Housing and Growth Deal. Similarly the opportunity for the HRA to acquire the private sales provision on other sites was explored but these did not deliver on an individual scheme by scheme basis what one would consider suitable Value For Money returns for the HRA and its tenants.
25. The HRA (see appendix 2) does indicate that future balances do diminish from 2021/22 by the presumed decision that debt redemption activity of the newly acquired debt will start from this year.
26. The extent with which the Council could continue with this approach going forwards will be dependent on an overarching strategic review of the other competing demands for HRA investment in existing assets such as regeneration projects. This will be incorporated into future HRA business planning
27. OCHL's delivery programme requires the development of 10 sites that are currently in Council ownership. In order to facilitate this development programme and to reduce the financial risk to OCHL, it will be necessary for the land to be transferred into OCHL at the start of the development process for each site. The land associated with the affordable housing would be transferred back to the HRA when the development is completed along with the freehold of blocks containing both affordable and private homes. Any market sales that were capable of a freehold disposal would be disposed of completely.
28. The development programme has been structured to ensure that at least 50% affordable housing is provided on all qualifying sites and homes are constructed to high levels of insulation to reduce carbon footprints and address fuel poverty for tenants. It is therefore important that the value of land transferring into OCHL fully reflects the costs of meeting Council aspirations for these schemes and the current build costs being experienced in the market. Hence these sites will be valued once the quantum of development and tenure mix is fixed and the build costs are understood, to maximise the chance of success for OCHL and to maximise the returns to the Council from this process.
29. The re-run of the OCHL business plan reflecting the above change in strategy will be presented to the Shareholder in a detailed report at the next Shareholder meeting. That said the Directors of the company have indicated that they are content with the revisions in accordance with this revised strategy and the housing company group continues as a profitable long term going concern.

Legal issues

30. The Council has the power to dispose of land at best consideration pursuant to Section 123 of the Local Government Act 1972, and has the power to acquire completed affordable housing units pursuant to Section 17 of the Housing Act 1985.
31. The approach set out here is legally compliant. External legal advice, from Trowers and Hamlin solicitors, was obtained, and their confidential and

privileged advice is attached as an exempt appendix to this report. The Council and OCH(D)L will of course need to ensure that the value of the property transactions made between them creates no opportunity for challenge as representing unlawful State Aid to OCHL.

32. While Housing and Growth Deal funding would not be accessible to the Council's housing companies (as no company within the OCHL group holds Registered Provider status), this funding should be available under the scheme proposed, as the funding will be drawn down by the Council not to form part of the property development costs but to assist in the property purchase costs.

Level of risk

33. The changes to both the OCHL and HRA Business plans will be reflected in the associated risk registers of each entity and continued to be managed by the relevant Board for the companies and the Head of Housing and Head of Finance with respect to the HRA.

Equalities impact

34. The increase in affordable housing will have direct benefit for those in greatest housing need.

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Background Papers:
None

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