

To: Cabinet
Date: 13 November 2019
Report of: Head of Housing
Title of Report: Community Led Housing Delivery and Approval to dispose of land for housing

Summary and recommendations	
Purpose of report:	To publish commissioned research into how Community-Led Housing (CLH) could be viably delivered in Oxford; to consider approaches to assisting the development of more Community-Led Housing; and to seek approval to lease the interest in a plot of land, for the provision of additional affordable housing, paying a grant to enable this.
Key decision:	Yes
Executive Board Member:	Councillor Mike Rowley, Board Member for Housing
Corporate Priority:	Meeting Housing Needs
Policy Framework:	Housing and Homelessness Strategy 2018 to 2021
Recommendations: That the Cabinet resolves to:	
<ol style="list-style-type: none"> 1. Note the Routes to Delivery report and endorse the Council response, supporting the initiatives proposed in response to the recommendations made, and the shared ambition of assisting the development of more Community-Led Housing in Oxford and Oxfordshire; 2. Delegate authority to the Head of Housing, in consultation with the Head of Financial Services/Section 151 Officer and the Council's Monitoring Officer, to enter into a long lease, for the sum of £35,800, of a plot of land, as detailed in this report, to the Oxfordshire Community Land Trust, or an alternative Registered Provider (within the Oxford Register for Affordable Housing Partnership), for the provision of additional affordable housing in perpetuity; and 3. Note that the Head of Financial Services will use standing delegations to vire £35,800 of capital funds, to enable the award of a grant to the Oxford Community Land Trust, or an alternative Registered Provider, for that sum, to recompense for the cost of the land. 	

Appendices	
Appendix 1	Routes to Delivery – Report and appendices
Appendix 2	Council response to report recommendations
Appendix 3	Risk Register
Appendix 4	Equality Impact Assessment
Appendix 5	Confidential: External Valuation Report – Champion Way

Introduction and background

1. Following a successful bid by the Council to the Community Housing Fund, in 2017, the Ministry of Housing, Communities and Local Government (MHCLG) awarded a £54,860 grant to the Council. The Council used this to commission a piece of research that would inform the Council and communities how Community-Led Housing (CLH) could be delivered sustainably in Oxford City.
2. The Collaborative Housing Hub, which is a partnership between Community First Oxfordshire, the Oxfordshire Community Foundation, and the Oxfordshire Community Land Trust were commissioned to undertake this research project. The study methods included desk-based research, a needs assessment, interviews, outreach events and a financial assessment. The full report from the Collaborative Housing Hub (CHH report), with executive summary, and appendices, can be found at Appendix 1 to this report to Cabinet.
3. This 'Routes to Delivery' report sets out the benefits of Community-Led Housing (CLH) and delivery approaches, including locally feasible delivery routes. The appendices include case studies.
4. The report defines the term 'community-led housing' to describe homes that are developed and/or managed by local people or residents in not-for-profit organisational structures. This can include residents influencing or controlling the design process, full community control of the built housing and amenities, full community ownership of the property on completion, community control over who lives in the development, rental and sales prices fixed in perpetuity by covenants in ownership contracts, and ongoing community management. Community groups actively build communities as well as housing and so create resilient mutually supportive neighbourhoods.
5. Community land trusts, co-operative housing, cohousing, collective self or custom-build, are typical examples of community-led housing. The report refers to these as 'mechanisms' and Table 1.1 of the report provides brief descriptions of some of these. In practice, these are often used in combination.
6. When the City Council draft Local Plan review went to Scrutiny Housing Panel in October 2018, some members of CLH groups presented reasons to set aside some land identified for development for CLH, and received a response at that time also from the Cabinet Member for Planning and Sustainable Transport.

Supporting Community-Led Housing

7. The report makes a series of recommendations, some of which involve changes to current Council practice; these are considered and responded to in Appendix 2 of this report. Overall, the Council seeks to take measures to support and assist the development of more CLH in Oxford and Oxfordshire, and welcomes opportunities to do so. The Council seeks to do this through non-binding approaches, but will seek this opportunity where a partnership approach could:
 - a. improve the site feasibility, and/ or;
 - b. bring forward additional affordable housing units, and/ or;
 - c. accelerate the delivery of new homes, and/ or;
 - d. bring wider community benefits through the development of the site, or the future management of it.
8. The Oxfordshire Growth Board has supported a successful funding bid to Homes England by the Collaborative Housing hub, to provide additional resource and focus on how best to secure land, finance and technical support for schemes across Oxfordshire, that builds and expands on the 'Routes to Delivery' work that was commissioned for Oxford City.
9. Oxford City Council has supported a successful bid to take forward one scheme through feasibility stages – as detailed below – and is currently supporting a further bid by Oxford Cohousing into Home England, for funding to resource working-up more local schemes at a feasibility stage.
10. The Oxfordshire Community Land Trust (OCLT) has also applied for Registered Provider (RP) status with the Housing Regulator and is at the second stage in that process. The OCLT are optimistic that they might secure this in Spring 2020. This will allow them to receive grant funding from the Oxfordshire Growth Deal, or Homes England directly – through their Approved Housing Programme (AHP).
11. Through this, and other contact, the Council continues to support community-led housing initiatives, with members and officers engaging with CLH groups to assist in the sustainable and viable delivery of more CLH in Oxford and Oxfordshire, and to improve the likelihood of effective delivery in the medium term. Information sharing workshop events are proposed to be part of the activity in relation to the publication of this 'Routes to Delivery' report.

Champion Way Proposal

12. At the end of Champion Way in Littlemore, the Council owns a small garage site comprising 7 garages and the associated forecourt. The garages have not been in use for some years and require capital investment to bring them to a lettable standard. The demand for garages is low and it is not considered viable or good value for money to undertake capital work to invest in them. There is some evidence of graffiti and anti-social behaviour around these buildings.

13. The garages were held by the Council in the Housing Revenue Account (HRA) but these were transferred, with most other Council-owned garage blocks, and associated land, to the General Fund in 2013. These garages do not contribute any rental income to the Council and are unlikely to do so.
14. The site has a number of constraints that limit its opportunity for development, including the following:
 - it is a small site that would not allow any economies of scale in terms of residential development options;
 - it has limited access, being along a single track road to the garages, that then reduces in size to a cycle track;
 - the site borders the ring road, which sits at an elevated level to the site;
 - there are mature trees to the northern boundary of the site that need to be protected;
 - a neighbouring property has access over part of the site to a separate garage in a rear garden.
15. For the above reasons, officers do not consider the site is viable for development through usual delivery routes, such as through the sale of the site to Oxford City Housing Limited (OCHL) - the Council owned housing company – and OCHL is re-focusing its business plan to focus on larger sites.
16. However, the Council responded to a call from Transition by Design (a community architectural practice) for difficult sites to consider for CLH development potential.
17. The Council supported a bid to the MHCLG Community Housing Fund to fund progressing this site through feasibility stages, and this work is continuing. Initial plans have been developed sufficiently to enter into pre-application discussions with the Local Planning Authority. Initial financial modelling suggests that with grant, a 100% affordable rented housing scheme can be delivered, for three or more units (one or two bed). If the density on the site increases above 3 units (and to a maximum of 6 units) then more social rent tenure units can be produced and the requirement for grant reduces. Modelling has been undertaken to test various scenarios, although these are fluid due to the plans still being at an early stage.
18. The ambition is to produce exemplar housing to a high quality, using off-site manufacture and units of high thermal and energy efficiency standards (near Passivhaus standard). The development would be car free and include some shared, community managed open space, in addition to private amenity space for each unit.
19. The Council will require the managing organisation to work in partnership with the Council under the Oxford Register for Affordable Housing (ORAH) Partnership Agreement, providing at least 90% nomination rights to the Council, to all units in the development, in perpetuity. Prospective tenants would be selected from applicants from the housing register bidding through the usual Choice based lettings system, although applicants would be expected to confirm that they would be happy living in a small housing scheme with a co-operative element to it.

20. The expectation is that the OCLT would develop these units, applying for grant funding from the Oxfordshire Growth Deal programme, possibly with an additional top-up funding grant from Oxford City Council, dependent on viability, tenure and the number of units. The indication is that such an application to join the Growth Deal programme would be successful and grant funding would be approved, although a direct application to Homes England under the AHP programme would also be an option.
21. Should the OCLT not secure RP status within the required timescale to facilitate this, then the OCLT/ CLH group are expected to partner with an existing RP to act as developer, and to manage the units subsequently – although a housing management agreement may be developed at a later date. The OCLT/ CLH groups have already engaged positively with a local partner RP in this respect.
22. Should such an initiative be possible on this site, then it is hoped that the approach and design specifications are relatively scalable, and could be applied to other sites, and in particular other unused Council garage sites in the city.
23. The Council has sought an external valuation of this site, which is attached as a confidential appendix (Appendix 5). This shows very limited options for the site, with no other options for disposal other than this, and a low existing use value of £35,800.
24. The Council could dispose of the land through sale, but it is recommended that this is instead achieved through a long lease of 125 years. This achieves the same policy objectives and is sufficient to support the CLH group secure development finance on the scheme.
25. It is proposed to lease this for market value, to comply with legal obligations. However, to ensure that a viable affordable housing scheme can be brought forward, it is proposed that the Council makes available a grant to the Oxford Community Land Trust, or an alternative Registered Provider, to effectively recompense for the cost of the land. Further top-up grant may be required in addition, to make development viable, once feasibility work is complete, but that will be considered separately to this report.
26. The lease will be conditional on all necessary statutory agreements for the development of the land; satisfactory agreement on nominations and management; and on the approach to the construction, including the demolition of the garages.
27. As an immediate and practicable step to support CLH, the Council will delegate to officers the ability to enter into lease and nomination agreements, as set out in this report, to facilitate this development.

Financial implications

28. The value of the land, assessed at Existing Use Value, is set out in Appendix 5. The valuation states that “a change of use for the site is unviable” and “that there is no higher alternative use value” than that stated. There is no current rental income for the site, nor any assumptions of future rent at present.
29. It is proposed that the Council sells the leased interest in the land at market value, and then makes a grant award of the same amount, viring funding to achieve this.

30. There are no other immediate financial implications from this report, although future grant funding options may be considered later, and will be subject to further approval.
31. Disposal of the garages for demolition will remove the risk of any further Council spend required to maintain or demolish these in the future.

Legal issues

32. Following an appropriation of the Champion Way garage site in 2013 from the Housing Revenue Account to the General Fund the site is held by the Council for income generation purposes and the power of land disposal under Section 123 of the Local Government Act 1972.
33. Section 24 Local Government Act 1988 (1988 Act) provides the Council with the power to provide financial assistance for the purpose of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance or management (whether by that person or by another) of any property which is or is intended to be privately let as housing accommodation (which will be the case here as the immediate landlord of each property will be a person other than a local authority).
34. Under Section 25 of the 1988 Act, a local authority cannot provide financial assistance under Section 24 or financial assistance or any any gratuitous benefit under other legislation without the consent of the Secretary of State. To dispose of the site at less than market value would constitute a gratuitous benefit.
35. For this reason the Council will dispose of the site by a long lease of 125 years at market value (£35,800) and simultaneously provide a grant of (£35,800) to the Oxford Community Land Trust, or an alternative Registered Provider.
36. The Council is able to provide the grant to the Oxford Community Land Trust, or an alternative Registered Provider, without specific Secretary of State consent by relying upon a general consent. C. The general consent under section 25 of the Local Government Act 1988 for financial assistance to any person 2010 provides that a local authority may provide any person with any financial assistance (other than the disposal of an interest in land or property) for the purposes of or in connection with the matters mentioned in section 24(1) of the 1988 Act set out in paragraph 33 above.
37. The Council has considered the State Aid rules and to avoid any illegal state aid it intends to rely upon satisfaction of the four tests in the Altmark judgment (Case C-280/00) in relation to the provision of Services in the General Economic Interest (SGEI) by:
 - imposing a requirement that the land is only used for the provision of social or affordable housing;
 - the recipient of the land demonstrating that its costs of provision of the social/affordable housing are no greater than it would cost a typical well-run community led housing undertaking.
38. Officers will continue to ensure that these tests are met in any arrangements made.

39. The Council will enter into its usual lease agreement under standard Heads of Terms.

Level of risk

40. A Risk Register is provided at Appendix 3.

Equalities impact

41. An Equalities Impact Assessment is provided at Appendix 4. There are no adverse impacts in undertaking this activity, with the potential to improve provision for persons in housing need.

Conclusion

42. That the Council will continue to improve advice and support to assist in developing more Community-Led Housing in Oxford and Oxfordshire. This will include practical measures such as making land available for such a community-led housing approach, where this is suitable and viable, and exploiting the opportunity at Champion Way, as set out in this report, as part of this approach.

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Background Papers:	None

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