

**To:** Cabinet  
**Date:** 11 March 2020  
**Report of:** Executive Director (Development)  
**Title of Report:** Blackbird Leys Development Project Detailed design

<b>Summary and recommendations</b>	
<b>Purpose of report:</b>	To seek approval to proceed to the detailed design phase of the Blackbird Leys Estate Regeneration project and allocate funds associated with the detailed design and planning, as well as delivery.
<b>Key decision:</b>	Yes
<b>Cabinet Member:</b>	Councillor Linda Smith, Leisure and Housing and Councillor Mike Rowley, Affordable Housing
<b>Corporate Priority:</b>	Meeting Housing Need; Strong & Active Communities
<b>Policy Framework:</b>	<p><i>Housing &amp; Homelessness Strategy 2018-2021:</i></p> <ul style="list-style-type: none"> <li>- Invest to create sustainable communities that are safe &amp; happy &amp; increase housing supply; and</li> <li>- Improve access to affordable housing.</li> </ul> <p><i>Strong and Active Communities:</i></p> <ul style="list-style-type: none"> <li>- Provide high quality community facilities</li> </ul>
<b>Recommendations:</b> That Cabinet resolves to:	
<ol style="list-style-type: none"> <li>1. <b>Delegate authority</b> to the Executive Director Development to sign off the Pre-Planning Viability Condition and all other Stage One requirements of the Development Agreement detailed in this report, and confirm the project can move past Gateway One and into Stage Two (detailed design &amp; planning submission) of the Development Agreement;</li> <li>2. <b>Delegate authority</b> to the Executive Director of Development, in consultation with the Cabinet Member for Leisure &amp; Housing and the Cabinet Member for Affordable Housing, to approve moving through the remaining Gateways of the Development Agreement and subsequently entering into a lease for the land with Catalyst Housing Limited, subject to the approved budget;</li> <li>3. <b>Note</b> that the Development Agreement sets out that if the scheme does not move forward to delivery, that the Council will incur 50% of the Stage 2</li> </ol>	

costs, an estimate of which is set out in the report. (paragraph 73);

4. **Approve** the use the CIL receipts generated to facilitate the delivery of the community and infrastructure works set out in the concept plan and to recommend to Full Council that this commitment is recognised in the Capital Programme in 2022/23 and beyond as a potential future earmarked CIL receipt (for investment in strategic infrastructure and community facilities at Blackbird Leys) and subject to planning;
5. **Recommend to Council** to allocate a budget of up to £21.528 million to deliver the scheme for new affordable and market housing, community and retail facilities and new and enhanced public space (paragraphs 11-19) and in line with the funding sources and viability assessment set out in this report. (paragraphs 57 – 62);
6. **Recommend to Council** to allocate the HRA and General Fund spend in accordance with the profile set out in the report.(paragraphs 63-64) and which will supersede any current budget held for this project; and
- 7 **Commit** to the fullest ongoing engagement with the local community as part of the detailed design and planning stage and prior to submission of the planning application.

### **Appendices**

Appendix 1	Concept Masterplan
Appendix 2	Strategic Outline Business Case - Confidential
Appendix 3	Financial Summary Report - Confidential
Appendix 4	Legal Report – Confidential
Appendix 5	Risk Register - Confidential
Appendix 6	Equalities Impact Assessment

### **Introduction and background**

1. The Blackbird Leys District Centre was identified as a comprehensive regeneration site in the Oxford City Council Sites and Housing Plan (2013). The Leys has some of the most deprived areas in the country and the retail and community centre buildings making up the District Centre are nearing the end of their design life. The key aspirations to create an identifiable district centre with improved amenity and public space, more homes and a new multi-functional community facility form the basis this project.
2. In October 2017, Oxford City Council (OCC) undertook an OJEU compliant ‘Competitive Dialogue’ process, which ultimately led to the appointment of Catalyst Housing Limited (CHL) as the development partner for the Blackbird Leys Estate Regeneration project.
3. Given the relative low land and property values in the area the project has always had significant viability issues. Initial proposals from all bidders were based upon an indicative masterplan produced for the Council by Levitt Bernstein and which the Council’s consultants CBRE had assessed as having a deficit or negative land value. Tenders were scored on a 60% Qualitative

and 40% Quantitative (financial) basis. The selection of CHL, as the preferred development partner, was recommended after evaluation by Council advisers CBRE and a team of Council Officers.

4. It was agreed to proceed with CHL on the understanding that the Development Agreement would allow for a stage where proposals would be developed to close the viability gap before moving forward to detailed design and planning.
5. On 18 September 2018, the then City Executive Board (CEB) delegated authority to the Regeneration and Economy Programme Director and the Head of Law and Governance, to finalise and enter into a Development Agreement with the CHL. It also delegated authority to the Regeneration and Economy Programme Director and the Head of Law and Governance, to agree external grant funding arrangements to support this project. The Development Agreement was agreed in May 2018.
6. For the project to move forward, the scheme as detailed in Appendix 1 and the associated Strategies set out in paragraphs 28-42 must be viable and the Development Agreement has been set up to ensure that both OCC and CHL work to achieve this via both parties agreeing the Financial Model. The Development Agreement sets out how the project is to be bought forward through a series of Gateways, where at key stages the schemes' viability is tested and agreed by both parties. This is illustrated in the Strategic Outline Business Case.
7. To this end, officers have been working with CHL throughout Stage One to achieve scheme efficiencies, alongside assumptions around housing grant and other internal and external subsidy to close the viability gap.
8. Officers are now ready to recommend the Council can move forward through Gateway One and into Stage Two of the Development Agreement, which will see the preparation of the detailed design, working with local residents, and the preparation of the planning application.
9. The Development Agreement requires two further viability tests. The Gateway Two viability test is prior to submission of the planning application and the Gateway Three viability test will follow the planning decision. These tests will allow for any scheme changes that might affect viability, alongside any changes or firming up of assumptions, including around costs, values or housing grant rates.
10. Following Gateway Three, the costs and values will be fixed, including the level of subsidy to CHL. This will then enable OCC to grant a lease of the land to CHL and for the building work to begin.

### **Project Summary**

11. OCC and CHL have been working together to develop a masterplan with regard to layout, housing mix including tenure and type, phasing and viability. The masterplan ideas have included engagement with the community. The concept masterplan is set out as Appendix 1 to this report. This masterplan is subject to change during the detailed design and planning stage and will be informed by further engagement with local people.
12. The masterplan is set over two sites in Blackbird Leys, the District Centre and Knights Road. It proposes a new redeveloped District Centre, including new

shops and community centre to replace the existing offer, and 203 affordable homes, with a mix of social rent and shared ownership. At Knights Road there is a new development of 74 market sale and 10 shared ownership houses.

13. The masterplan has evolved in order to improve the financial viability. Knights Road is predominantly market sale housing with some shared ownership housing to improve cash flow to fund the District Centre. The District Centre development is wholly affordable housing in order to secure housing grant. The District Centre has consolidated around the existing shop and community sites and around Evenlode Tower. Development around Windrush Tower and immediately south of the 'top shops' site has been omitted as unviable.
14. The resultant concept masterplan provides 287 new homes. 12 flats above the 'top shops' will be demolished including 8 existing OCC flats and 4 leasehold properties. The scheme therefore provides an additional 275 new homes. 74% of the new housing is affordable with 52% social rent. 12% of the new homes are 3 bedroom. Details are included in Appendix 1.
15. The concept masterplan requires 8 existing OCC flats, located above the 'top shops' to be demolished. The decant strategy for affected tenants is set out below. CHL would retain ownership of all new units provided. OCC will have allocation rights.
16. The District Centre includes 982sqm of new retail and a 1,200sqm new Community Centre. There is sufficient new space for existing retail tenants and community centre users to be accommodated within the new development.
17. The current indicative phasing would seek construction work being undertaken in two phases. Phase One will include Knights Road, the new Shops and Community Centre and flats over the new shops and on the Evenlode Site adjacent the existing tower. Phase Two will be the new homes on the existing 'top shops' site. Refer to Appendix 1.
18. The masterplan has been subject to formal pre-application advice and will continue to be developed in partnership with the community towards a planning application. A Planning Performance Agreement has been signed between OCC and CHL.
19. The current project programme shows Stage Two Detailed Design and Planning submission being submitted January 2021 with Stage 3 Planning Decision due January 2022. Construction of Phase One is to commence Jan' 2022 with completion January 2024. Phase Two construction is to commence May 2024 with completion August 2026. This programme is subject to change and will be firmed up through the gateway process.

#### **Outline Business Case summary**

20. The Council has appointed Amion Consulting to prepare a Strategic Outline Business Case (SOBC). This confirms that the Stage One proposals meet the Business Case evaluation criteria and recommends that the project progresses to the next stage of development. An Outline Business Case will be required at the Stage Two Gateway. The SOBC is set out as Appendix 2 to this document.
21. The analysis has identified a strong evidence of need (Strategic Case). Blackbird Leys is deprived not just in an Oxford context, but against a wider

national background. This is supported by the Indices of Deprivation 2019, where the Blackbird Leys ward is in the 10% most deprived areas in the country.

22. The project has already been approved for Housing and Infrastructure Funding HIF monies from central government. Their assessment process is underpinned by a similar HMT Green Book methodology, which is associated with a strong Economic Case.
23. CHL has been preparing development appraisals, and in line with best practice, these have been robustly tested by the Council's commercial advisors, Montagu Evans. This ensures the public sector is maximising viability; the Financial Case.
24. The Commercial Case outlines how the project will be delivered by CHL and the Council. The Council has also appointed consultants Ridge to review the costings provided by CHL, which again strengthens the due diligence process.
25. The Management Case sets out how the delivery of the project will be planned, monitored and overseen to evaluation. The Development Agreement and the Council's own internal mechanisms will be central to ensuring good management of the scheme moving forward.

### **Stage One Gateway – Requirements**

26. The concept masterplan, has informed assumptions around mix and tenure and is the basis for estimates around construction costs and values, which in turn inform the Financial Model, which needs to be agreed by both parties. The financial considerations are set out in the Financial Implication section below.
27. Alongside the viability test, the Stage One Gateway requires agreement to strategies for stakeholder engagement, design quality, vacant possession and decant, development and phasing, the financial model, marketing and management.
28. These strategies will be finalised before entering into Stage Two and are summarised below.

### **Stakeholder engagement**

29. The concept masterplan has been developed with the involvement and feedback from the local community. There is a strategy led by CHL to ensure that the detailed design will continue to provide a wide range of opportunities for residents and stakeholders to fully engage with the work, and a commitment to develop that strategy based on feedback from the community as the project develops. CHL and OCC are working with existing and emerging forums and are providing additional opportunities for hard to reach groups to engage in the regeneration proposals.
30. The re-provision of the community centre is a key element of the masterplan and future engagement proposals include bespoke meetings to develop the detailed design of the centre. The strategy recognises the importance of ensuring that existing user groups are provided with temporary facilities during construction of the new centre.

31. There will be additional engagement with the existing retail occupiers about their intentions and preferences for the new retail offer and further consultation with the community about the uses they would like to see.

### **Design quality**

32. Design quality is defined by the Design Code. The Stage One Gateway proposals commit CHL to meeting OCC's emerging 2036 Oxford Local Plan standards. This requires improved sustainability standards to achieve an increase of a 40% improvement on Building Regulations energy use for Housing and BREEAM Excellent for the Community building. The detailed design will explore strategies to further improve sustainability for the new buildings. Detailed design and engagement on the design and use of the landscape and new public square will ensure these spaces will be a positive contribution in the area with specific funding included in the cost plan to ensuring their success. The strategy also commits to meeting the emerging fire safety standards with all new flats designed to the same improved standards and not just the taller buildings.

### **Vacant possession and decant**

33. The vacant possession and decant strategy includes tenants and leaseholders, the community centre and retail occupiers and users.
34. The concept masterplan has been revised reducing the rehousing need for both leaseholders and tenants. There are 8 tenants living above the existing shops. They will be given priority for re-housing through the council's allocation scheme and will have the option of returning to a council property or moving in to one of the new CHL properties.
35. There are 4 private leaseholders above the existing shops. There has been initial consultation with them as part of the concept masterplan work. The detailed design stage includes for further negotiation to acquire their interests by agreement. Should negotiations not prove successful, the vacant possession strategy recognises there may be a need to acquire their interests through the CPO process. Should this be deemed necessary a further report and submission will be made to Cabinet for consideration.
36. The concept masterplan strategy allows for existing tenants to be retained in the new retail units within the new district centre. The existing shops will remain in use until the new centre is constructed. There has been early engagement with tenants and this will continue through the detailed design stage. The strategy includes details of leases protected under the 1954 Landlord & Tenant Act. As with residential leaseholds should negotiations fail there may be a need to seek Cabinet approval for compulsory purchase, which will form part of a separate report.
37. The existing community centre will need to be demolished in order to make way for the new centre. The decant strategy for the Community Centre therefore provides support for existing users to be accommodated elsewhere on the estate and to ensure that current visitors can continue to engage with their services until the new centre is available.

## **Development and Phasing**

38. The development and phasing strategy minimises disruption to the community and supports the financial viability. Phase One includes the construction of the market sale homes at Knights Road and the new community centre, shops and flats on the existing community centre site. The sale of the new houses will provide cash flow to support the new district centre. The existing 'top shops' and flats will only be demolished after the new facilities are built. The strategy accommodates the timetable for the external Housing and Infrastructure Fund (HIF) grant and details the gateways required by the Development Agreement.

## **Financial Model**

39. The financial strategy at Stage One establishes a viable model that will be agreed by both CHL and OCC to enable the project to move forward to the next stage. The model has evolved with the concept masterplan. This is detailed in the Financial Implications section below.

## **Marketing and Management**

40. The marketing strategy for the market sale and shared ownership housing addresses the need to encourage buyers to consider new homes in Blackbird Leys. It will also consider how local buyers who currently live and work in the Blackbird Leys/Greater Leys area and how keyworkers e.g. local teachers from the neighbourhood college/schools can be prioritised.
41. CHL is committed to work with the City's Housing Team to agree the allocation of new homes using their choice based lettings scheme and/or Council's waiting list and to reviewing the demand for homes including unit size, demographics and priority needs. This will include targeting keyworkers, under occupiers affected by the bedroom tax, elderly residents and those considering downsizing and applicants who work in or around the Blackbird Leys area but may have a low priority need on the waiting list.
42. The management strategy is a comprehensive proposal that addresses the day to day estate management and environmental issues to maintain and improve neighbourhood standards and including the strategy for maintenance of the new public realm. The strategy includes the CHL social investment arm to support residents with a bespoke referral and case management system to identify and appropriately respond to resident needs.

## **Community and Stakeholder Involvement**

43. The Community has been engaged throughout the development of the concept masterplan through events led by CHL, working in partnership with OCC. This includes a pre-consultation survey in March 2019, engagement events in April 2019, Community Planning Days in May 2019, workshops with local schools and a Community Report Back event in June 2019. Pop-up consultation events have also been held at key locations and meetings held with local community groups, throughout the process.
44. CHL has delivered a monthly bullet point briefing, sent to all political stakeholders, partner organisations and interested people signed up to the project mailing list together with a bi-monthly update in the Leys News

45. In addition to the community engagement events, meetings have been held with Oxfordshire County Council to develop ideas for incorporating the existing Blackbird Leys Library into the new Community Centre. These consultations are on-going.
46. A bullet point briefing will be sent to the mailing list in mid-February and a community engagement event is being held on the 7<sup>th</sup> and 10<sup>th</sup> March to present the latest masterplan proposals.

### **Financial Implications**

47. This report recommends OCC moving through the Stage One Gateway to Stage Two. As part of this OCC needs to agree to the Financial Model and the assumptions set out within it. This model has been produced by CHL and has been independently reviewed and tested by OCC's advisors, including Montagu Evans (commercial agents) and Ridge (Quantity Surveyors).
48. CHL were selected as the preferred Development Partner, based on the highest scores on both quality and financially because they had the lowest profit margin on costs. As such, they represent the best value bidder to OCC for the project.
49. It was recognised on the selection of CHL that the project would, alongside work to make the scheme more efficient, require a significant amount of subsidy, including assumptions around housing grant, the potential to secure external funds from the Housing and Infrastructure Fund (HIF), alongside the potential to use some of OCC's Section 106 off-site affordable housing contributions. CHL have also provided a level of internal subsidy to help bridge the gap.
50. The infrastructure and community facility and retail re-provision to deliver the comprehensive regeneration at Blackbird Leys is of a scale that also requires re-investment of the Community Infrastructure Levy (CIL) receipts generated from the site. In the normal course of events the City and County Councils are required to consider what infrastructure is needed to mitigate the impact of developments across the City. The process is then for the City Council, as the sole recipient of CIL payments, to confirm in its capital programmes what infrastructure is to be paid for from CIL.
51. The re-provision of the existing retail and community facilities, the low value housing and the significant infrastructure and public space improvements are identified in the viability report as contributing to the significant deficit on the scheme – in addition to other public funding already identified. The proposal is to use the CIL receipts of £902K generated by the scheme to facilitate the delivery of the community and infrastructure works set out in the concept plan.
52. This report seeks Cabinet approval for this approach in principle and to recommend to Council that this commitment is recognised in the Capital Programme in 2022/23 and beyond as a potential future earmarked CIL receipt (for investment in strategic infrastructure and community facilities at Blackbird Leys) and subject to planning permission being granted.
53. The Development Agreement sets Benchmark Financial Assumptions within the CHL Financial Model. These are finance costs, development management fee, overheads and gross profit margin. Further, commercially sensitive,



details about the Development Agreement are set out in the confidential financial summary report appendix 3

54. The total capital cost of the scheme is approximately £100.621 million. The work to establish scheme efficiencies, reduce costs, maximise income, establish allocated housing grant and identify further CHL internal subsidy has reduced the deficit in the CHL Financial Model to £12.678 million.
55. It should be noted that the Development Agreement also requires certain costs to be met by OCC, which sit outside the Financial Model and are therefore additional. These include achieving Vacant Possession of the development sites and internal project delivery costs, such as staff and OCC professional advisors. These costs are direct to OCC and as such are on top of any assumptions in the CHL Financial Model. These costs are budgeted as £8.440 million including contingency.
56. As such, the total scheme deficit, when taking account of the deficit from the CHL Financial Model and the additional costs that sit directly with OCC is currently £23.375 million. This is reduced to £21.528 million when the finance savings generated by the CIL relief and HIF funding are taken in to account.

### **OCC Funding**

57. To ensure project delivery, OCC will need to agree that it is able to meet the deficit shortfall. The proposed mix of funding to achieve this is set out below.
58. **Housing Infrastructure Funding** - OCC has entered into a contract with Homes England for the HIF funding in the sum of approximately £6.250 million and with the deadline for expenditure extended to March 2023. This will be paid to CHL at the start of the scheme to reduce the deficit. Early payment will have the benefit of reducing CHL finance costs and this is shown in the table below.
59. **HRA contribution** - Improvements to the viability have reduced the demand on HRA from the level agreed at the CEB approval in September 2018. This also reflects a reduction in the number of new homes proposed as being returned to the Council. As well as a revitalised area the scheme will also allow nomination rights for tenants on the Council's waiting list. The allocation of £4 million will be paid in the form of the payment of direct costs and a capital contribution to CHL of approximately £1.1 million.
60. **Section 106 affordable housing receipts**- the Council has an amount of approximately £7.6 million of Section 106 affordable housing receipts available which could be used on this scheme. This would be paid in the form of a capital contribution to CHL
61. **Community Infrastructure Levy** - The Council has available funds received from CIL payments in addition to those generated by the scheme and that could be used on funding this scheme. The assumption is that £1.422 million will be used for this purpose in the form of a capital contribution to CHL.

62. A summary of the Financial Model for approval is set out below:

<b>Catalyst Viability Summary</b>	<b>Phase 1</b>	<b>Phase 2</b>	<b>Total</b>
Total Income	£53,213,190	£24,032,805	£77,245,995
Total Costs	-£64,066,930	-£25,857,514	-£89,924,444
<b>Baseline Surplus/ Deficit (-ve value is deficit)</b>	<b>-£10,853,740</b>	<b>-£1,824,709</b>	<b>-£12,678,449</b>
Catalyst other costs	-£2,256,000	£0	-£2,256,000
<b>Baseline Surplus/ Deficit</b>	<b>-£13,109,740</b>	<b>-£1,824,709</b>	<b>-£14,934,449</b>
<b>OCC Costs:</b>			
Vacant Possession & Decant	-£2,916,000	-£2,100,000	-£5,016,000
Project Delivery Costs	-£1,041,528	-£483,630	-£1,525,158
Contingency	-£1,458,576	-£440,834	-£1,899,409
<b>Baseline Surplus/ Deficit incl' OCC Costs</b>	<b>-£18,525,844</b>	<b>-£4,849,173</b>	<b>-£23,375,016</b>
<b>Funding/ Finance Options to Reduce Deficit</b>			
CIL Relief Contribution	£902,053		£902,053
CIL Finance Cost saving	£183,745		£183,745
HIF Finance Cost saving (see below)	£761,283		£761,283
<b>Baseline Surplus/ Deficit incl' CIL/ Finance savings</b>	<b>-£16,678,763</b>	<b>-£4,849,173</b>	<b>-£21,527,935</b>
<b>Further Funding Options to Reduce Deficit</b>			
s106 Contribution	£2,750,827	£4,849,173	£7,600,000
HIF Contribution	£6,250,000		£6,250,000
Capital Receipt	£2,256,000		£2,256,000
HRA	£4,000,000		£4,000,000
CIL	£1,421,935		£1,421,935
<b>Baseline Surplus/ Deficit</b>	<b>-£0</b>	<b>£0</b>	<b>-£0</b>

63. The total funded by the Council split between the HRA and General Fund is detailed within Appendix 3. The Council will need to make provision for these amounts within its Capital Programme. The Council has already made provision within its HRA for an amount of £5.762 million. The latest viability assessment will reduce this amount to £4 million with the majority spend in 2023-24 which will be the revised budget for the HRA, £297k of which has already been allocated in 2019-20. The detailed allocation of the HRA is set out in the Confidential Financial Summary Appendix 3.

64. There is currently no budget within the Council's General Fund Capital Programme and an amount of £17.194 million will need to be included across 2022-26. The details of the proposed provision is set out in the Confidential Financial Summary Appendix 3. The project may require additional budgetary provision in order to obtain the necessary planning approvals. Should this be required then a further report will be prepared to Cabinet to seek the increased budget approval before the project progresses since the amounts will be payable to Catalyst in the form of capital grants.

65. The project requires the input of land at nil cost to the scheme. The book value of the assets held by the Council is estimated at £3.3 million however, the low property values means that the actual development value of the land is negative as demonstrated by the viability work and confirmed in the Montagu Evans Best Consideration report.
66. In addition to the disposal of land disposals of Housing Revenue Account (HRA) property out of the Council's ownership, whether on a freehold or a leasehold basis, require consent under Section 32 of the Housing Act 1985 (the 1985 Act). The current General Consents are 'The General Housing Consents 2013', issued in March of that year (with a Correction in July). General Consent A3.1 allows a local authority to dispose of the freehold of 'Part II' (i.e. HRA) land upon which dwellings exist, to a third party, at market value.
67. In order to demonstrate compliance with General Consent A3.1 when the Council reflects the disposal of the HRA assets from its accounting records a consideration equal to the then market value in the form of a capital receipt from the third party purchaser will be paid to the Council.
68. The above payment will be received by the Council on the prior agreement that the capital receipt, being classed as "Other Housing Receipts" will not be subject to pooling and instead can be immediately recycled in full back to the third party, via the Council's GF capital programme, in pursuance of regeneration and affordable housing activities that for example the Blackbird Leys Scheme is clearly associated with delivering for the wider benefit of the Council.
69. In overall terms the Montagu Evans Best Consideration Report confirms that the Council is obtaining best consideration (in terms of s123 of the Local Government Act 1972) in relation to the disposal of the site generally. Whilst the 1972 Act regime is separate from that under the 1985 Act, there is a read-across in broad valuation terms. Given that Montagu Evans have confirmed that best consideration is being obtained, and subject to the above receipt being received by the Council in respect of the disposed HRA assets on the site that will immediately be recycled back to the third party, it is therefore demonstrated that the Council is indeed disposing of its HRA land at "market value" as required by the 1985 Act.
70. It should be noted that CHL Financial Model includes assumptions on Housing Grant approximating £13.4 million. The rates are not approved and are dependent on future levels of Homes England grant, which have not yet been set. However, they are based on rates achieved by CHL elsewhere in Oxford. CHL has included their own contribution subsidy which is detailed in the Confidential Financial Report Appendix 3
71. As noted earlier in the report, the Development Agreement requires two further viability tests. The Gateway Two viability test is prior to submission of the planning application and the Gateway Three viability test will follow the planning decision. These tests will allow for any scheme changes that might affect viability, alongside any changes or firming up of assumptions, including around costs, values or housing grant rates.

72. Following Gateway Three, the costs and values will be fixed, including the level of subsidy to CHL. This will then enable OCC to grant a lease of the land to CHL and for the building work to begin.
73. Should assumptions change during Stage Two and scheme viability not be achieved, both parties have an option to exit the scheme. OCC would then be liable to a 50% share of the professional fees, which are budgeted at a total of £1.988 million. These costs will initially be incurred by CHL to produce the detailed design. Therefore, entering into Stage Two commits OCC to the possible risk of abortive fees of £994K. After the Stage Two viability is achieved OCC's liability for the share of fees is removed.
74. This potential cost liability is in addition to costs OCC will need to incur during Stage Two for staff costs, professional advice and meeting its obligations with the Development Agreement. These are estimated to be around £297K.
75. Montagu Evans has carried out a viability report into the CHL proposals as part of the due diligence work. Their sensitivity analysis table below shows the impact of incremental changes of 5% to sales revenue (open market and shared ownership) and construction costs (all uses/tenures) to the current deficit. The current CHL deficit prior to inclusion of OCC costs and funding is approximately 12.7 million. The table shows how for example, an increase in construction cost of 10% and a reduction of sales values of 5% has the potential to increase the deficit by c.£10.3 million.

<b>Surplus/Deficit (-ve) £m</b>					
	<b>Sales: Rate /m<sup>2</sup></b>				
<b>Construction: Rate /m<sup>2</sup></b>	<b>-10%</b>	<b>-5%</b>	<b>0%</b>	<b>5%</b>	<b>10%</b>
<b>-10%</b>	-£8.75	-£6.67	-£4.59	-£2.51	-£0.43
<b>-5%</b>	-£12.85	-£10.77	-£8.69	-£6.62	-£4.54
<b>0%</b>	-£16.95	-£14.88	<b>-£12.72</b>	-£10.72	-£8.64
<b>5%</b>	-£21.06	-£18.98	-£16.90	-£14.82	-£12.74
<b>10%</b>	-£25.16	-£23.08	-£21.00	-£18.93	-£16.85

76. The Stage Two detailed design work will include regular reviews of both costs and values. Should the proposals deviate from the budget mitigation steps will be required including measures to enhance values and to improve the efficiency of the proposals.

### **Legal Issues**

77. In undertaking the Blackbird Leys Estate Regeneration project the Council is relying on Section 1 of the Localism Act 2011 (the Act), which provides a general power of competence to "*do anything that individuals generally may do*". Section 1 of the Act is however qualified by Section 4(2), which states that "*where, in exercise of the general power, a local authority does things for a commercial purpose, the authority must do them through a company*"
78. The Council is not acting for a commercial purpose as the objective of the Blackbird Leys Estate Regeneration project is for the achievement of housing, employment and growth or regeneration objectives. To the extent if any that the Council achieves any return it will be in order to further its primary non-commercial purposes. The Development Agreement Benchmark Financial

Assumptions set out in the original Catalyst bid including: finance costs, development management fee, overheads and gross profit margin are complied with in the current Viability.

79. This project will be centred on sites within the City Council's freehold ownership. Pinsent Mason LLP, the Council's external legal advisers have undertaken a high level review of Title and raised no critical issues to date. A full title search has been commissioned and will be completed in time to inform the delegated decision to move to Stage Two of the Development Agreement.
80. Vacant Possession of Council sites is a requirement of the Development Agreement. A draft strategy has been agreed as part of the Stage One Gateway. The council has proposed the appointment of external consultants to manage the Vacant Possession strategy.
81. Montagu Evans was instructed to assess whether the current stage "land pricing" from the Partner, taking due account of the terms of the Development Agreement ("DA"), represents 'best consideration' as per Section 123 Local Government Act 1972.
82. Montagu Evans Best Consideration report concludes that the Council has demonstrated that the proposed deal at this early stage (i.e. pre-planning and land transfer/pricing) looks set to deliver the best consideration that can reasonably be obtained. This will be tested again at the Stage Two.
83. Exempt Appendix 4 (to be circulated separately) provides advice on State Aid and procurement matters.

#### **Sustainability & Environmental Implications**

84. The Viability proposals have been revised since the original tender proposals in particular to comply with the 2036 emerging Local Plan sustainability standards notably:
  - a. 40% increase on Building Regulations Efficiency standards
  - b. BREEAM Excellent for the Community Centre
85. CHL is further committed to delivering solutions that reduce carbon emissions. Their outline proposals have included options such as air source heating for all properties in place of boilers. The sustainability proposals will continue to be developed as part of the Detailed Design Stage Two proposals with consideration of the impact of further enhancements including Passivhaus and other improvements to sustainability.
86. Environmental improvements to be developed during the detailed design period will include the significant new public square and landscape Improvements and with opportunities for Sustainable Urban Drainage (SUDS) inclusion.
87. Housing quality standards including compliance with new minimum space standards and standards for accessible and adaptable housing in accordance with OCC emerging 2036 Local Plan will help address local housing need and wider community sustainability issues.

## **Risks**

88. The Risk register is attached as Appendix 5. Key risks are outlined below.
89. The financial model is at feasibility stage and will be reviewed at Stage 2 in accordance with the development agreement. Costs and values may change and this will impact on the viability. This will be closely monitored during detailed design.
90. The HIF funding spend deadline has been extended to March 2023. The construction programme will need to be carefully monitored to meet this timetable which is challenging but achievable.
91. Grant funding is dependent on future levels of Homes England grant, which have not yet been set
92. OCC will be liable to a share of Stage Two detailed design costs should scheme viability not be achieved at Stage Two.
93. OCC funding of the deficit and the retention of all affordable units by CHL to further reduce the subsidy will be subject to legal review and is detailed in the confidential Legal report Appendix 4.

## **Equalities Impact**

94. The project will work alongside the local priorities set for the area and which are reflective of the estate's current needs. It will be important that social regeneration is embedded within the physical regeneration activities; meeting the current and future needs of the community.
95. In support of OCC Healthy Place Shaping policy a Health Impact Assessment will be carried out during the detailed design stage to inform the proposals. Blackbird Leys has been identified as having the highest levels of inactivity in Oxfordshire (as identified by Sport England's Active Lives). Healthy Place Shaping is part of Active Oxfordshire's proposals to work with under-represented groups for which inactivity is a major issue, in particular disabled people and people with long term health conditions who make up 20% of the adult population. It will also identify and pursue opportunities for strategic thinking and policy making around mental well-being, older people and, workforce/skills development.
96. CHL is committed to the wider improvements and investment at Blackbird Leys including a commitment to employment skills and training. CHL will conduct an estate-focussed Employment and Skills Audit and ensure that opportunities are not restricted to construction related work but will include wider opportunities for up-skilling and training to support long term, secure and higher paid work.
97. See Appendix 6 for an Equalities Impact Assessment which is specific to the Stage 2 detailed design proposals.

## **Conclusion**

98. Approval to the Pre-Planning Viability Condition and all other Stage One requirements of the Development Agreement detailed in this report will enable the scheme to move past Gateway One and into Stage Two of the Development Agreement. This is supported by The Strategic Outline Business

Case which recommends that the project progresses to the next stage of development.

99. Approval to proceed to Stage Two will enable the detailed design work to commence which will see the preparation of the detailed design, and the preparation of the planning application including the further engagement of the local community to support the design. This will commit OCC to the possible risk of abortive fees of £994K should the project not proceed beyond the next viability test at the Stage Two Gateway.

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<b>Background Papers:</b>
None

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