

To: Cabinet
Date: 16 June 2021
Report of: Head of Housing Services
Title of Report: Proposal to exercise the Duty to Cooperate with Cherwell District Council to meet Oxfordshire's unmet housing need

Summary and recommendations	
Purpose of report:	To seek approval for a scheme which involves exercising the Duty to Cooperate under the Localism Act 2011 with Cherwell District Council to meet Oxfordshire's unmet housing need and to provide an update on the wider Oxfordshire agreements with West Oxfordshire District Council, South Oxfordshire District Council and Vale of White Horse District Council.
Key decision:	Yes
Cabinet Member:	Cabinet Member for Affordable Housing, Housing Security and Housing the Homeless
Corporate Priority:	Meeting Housing Need
Policy Framework:	Housing and Homeless Strategy 2018 to 2021
Recommendations: That Cabinet resolves to:	
<ol style="list-style-type: none"> 1. Approve exercising the duty to cooperate under the Localism Act 2011 with Cherwell District Council and other neighbouring district councils to meet Oxfordshire's housing need; 2. Agree in principle to accept a delegation from Cherwell District Council using section 101 of the Local Government Act 1972 to perform its statutory housing functions in respect of properties identified in order to meet Oxford's unmet demand; 3. Note the agreed approach with West Oxfordshire District Council; 4. Note the agreed approach with South Oxfordshire District Council; and 5. Note the agreed approach with Vale of White Horse District Council 	
Appendices	
Appendix 1	West Oxfordshire District Council Memorandum of

	Undertaking
Appendix 2	Report and Resolution of Cherwell District Council (April 2000)
Appendix 3	List of Cherwell District Council Unmet Housing Need Sites

1.0 Introduction and background

- 1.1. Oxford City Council (“the Council”) is unable to meet its assessed housing supply needs within the administrative boundary of the city. This is evidenced in various reports, including the Oxfordshire Strategic Housing Market Assessment 2014 (“SHMA”) jointly commissioned by all five local authorities, and in subsequent research, updates (2018) and tests, including reports assessing available land supply in Oxford.
- 1.2. In 2016, the Oxfordshire Growth Board (“the Growth Board”) co-ordinated a process of county-wide work to consider how ‘unmet’ housing need arising from Oxford in the period to 2031 should be apportioned across Oxfordshire as a whole. Following the work of the Growth Board on the SHMA an assumption has been adopted that, in addition to the homes that are to be developed within the city, a further 15,000 homes are required to meet Oxford’s unmet housing need to 2031.
- 1.3. For the past five years, Oxford City Council and other district councils in Oxfordshire have been developing proposals whereby these housing supply needs – indeed the needs of Oxfordshire – can be best met through an equitable distribution across local authority boundaries.
- 1.4. An apportionment of the unmet housing demand between the various districts was assessed and agreed by all strategic partners to the Oxfordshire Housing and Growth Deal.
- 1.5. The duty to cooperate was created by the Localism Act 2011. It places a legal duty on local planning authority’s county councils in England and public bodies to engage constructively, actively and on an ongoing basis with each other to maximise the effectiveness of local plan preparation relating to strategic cross-boundary matters.
- 1.6. It has been agreed that under the statutory “Duty to Cooperate”, the neighbouring district councils will assist by providing an apportionment of the 15,000 homes as follows:

Table 1

Local Authority	Apportionment of Oxford's unmet housing need to be delivered in each district as agreed by Growth Board	Apportionment proposed for delivery by district	Affordable Housing (Agreed as being 50% of the total)
Oxford City Council	550	550	275
West Oxfordshire District Council	2,750	2,750	1,375
Vale of White Horse District Council	2,200	2,200	1,100
Cherwell District Council	4,400	4,400	2,200
South Oxfordshire District Council	4,950	4,950	2,475
Total	14,850	14,850	7,425

Following the allocation of the unmet housing need to each locality, officers have worked to agree an allocation and monitoring procedure with each local partner.

2. Housing Needs & Allocations Approaches

2.1 Throughout the Local Plan planning processes for each local authority, it has been recognised that each local authority would need to establish a detailed arrangement for meeting the unmet housing need, and the mechanisms to be used to deliver the expected outcomes, including the location, tenure mix, unit size, and eligibility and allocation criteria.

The broad principles for this work have been:

- To identify sites to deliver the agreed number of homes as soon as possible, and within a ten-year period (2021-2031) recognising the strategic nature of much of this development;
- To ensure that any sites identified have a strong spatial relationship with Oxford, with effective links using regular and affordable public transport along existing routes, or with planned infrastructure improvements to facilitate this;
- That a consistent approach towards affordable housing in relation to the unmet housing needs of Oxford would be beneficial, including the Oxford Local Plan requirement for 50% affordable housing on housing schemes;
- To ensure that housing needs are best met in terms of the mix of homes by type, size and tenure, and that these are as affordable as can be viably achieved;

- That access to these homes is as straightforward as possible through clear and transparent ‘customer journeys’ through the housing application and allocation processes; and
- That each of the councils have established policies and processes to ensure that the process is administered in a fair and open manner, with effective governance, and the opportunity for review and improvement in order to achieve the aims that are set out in the Duty to Cooperate.

2.2 These proposed approaches agreed with neighbouring district councils relate to affordable rented homes only. Shared Ownership and other low cost home ownership initiatives are ‘market’ products allocated by regional HomeBuy agents. Such schemes use a separate applicant list and do not assess on the basis of need or local connection.

3.0 Applications Process

It has been necessary to reach agreement with each neighbouring district council on the preferred allocation process to be used when allocating homes developed under the proposed scheme. An Oxfordshire-wide lettings approach using either a common application form or shared ICT system was discussed with all of the partner local authorities however a common approach could not be agreed within the time constraints of local plan adoption programmes, and so a variety of different approaches will therefore be necessary.

3.1 These different approaches will have an impact on the ‘customer journey’ for Oxford residents seeking to join or already registered as housing applicants with the Council. All interested applicants who are already on, or apply to join the Oxford Register for Affordable Housing (“ORAH”) with Oxford City Council will have the home advertisements, assessment of need and allocations carried out by the Council.

3.2 Residents with housing need and a local connection to Oxford through residence, employment or family can, in addition, register on the neighbouring district housing registers of West Oxfordshire District Council, South Oxfordshire District Council and Vale of White Horse District Council.

4.0 West Oxfordshire Approach

The West Oxfordshire District Council (“WODC”) has elected to retain the management of applications and the allocation of the dwellings identified in West Oxfordshire to meet Oxford’s unmet need through their Choice Based Lettings system. This will require Oxford residents to also register with WODC where they will be able to indicate their local connection to Oxford through residence, employment or family. WODC will manage the assessment and allocation process and report on a monthly basis the numbers of dwellings let to those with an ‘Oxford Connection’ and those let to Oxford residents. Full details of the agreement at officer level between the Council and WODC is set out in Appendix 1.

5.0 South and Vale Approach

The South Oxfordshire District Council and Vale of White Horse District Council (“South & Vale”) are also seeking to administer the application and allocation of identified dwellings to meet the unmet housing need in Oxford through their Choice Based Lettings system. This will again require Oxford residents to register with South & Vale and indicate their local connection to Oxford through residence, employment or family, however as the two councils have a common allocation system residents will only have to complete one registration for both areas. Preliminary discussions are underway between officers of the three authorities but it is anticipated the agreement will follow that already in place with WODC.

6.0 Cherwell District Council Approach

6.1 Unlike WODC and South & Vale, Cherwell District Council has proposed to delegate its executive function of letting the units, under the Housing Act 1996, to Oxford City Council. The proposed delegation would only apply to the functions under the Housing Act 1996 in respect of the specific properties which are identified as being delivered to meet Oxford’s unmet housing need. As such, Cherwell District Council would retain full control and powers over both the development of housing on those sites, and all other statutory powers and functions arising in respect of such properties.

6.2 Approval has been given in principle for this approach by Cherwell District Council (Appendix 2). A further report will be brought forward for consideration as soon as the necessary delegation of the function has been made by Cherwell District Council. There would be a formal agreement between the two authorities setting out the details of the how the delegation will operate.

6.2 The Council would process all housing applications from eligible households who have a local connection to Oxford through residence, employment or family. When a property becomes available on an identified site to meet Oxford’s need within Cherwell district, the Council would then work with the registered provider to administer the letting of the property and nominate eligible households directly from the Council’s housing register. Should the Council be unable to make a nomination or allocate the property to someone with an Oxford local connection, then they would offer the opportunity to Cherwell District Council to nominate a housing applicant from its housing register.

6.3 This approach would involve the Council using its allocations policy to determine eligibility and suitable nominations for the properties on the sites in the Cherwell administrative area that have been identified to meet an Oxford need. In addition, it would prevent the need for Oxford housing register applicants to also register with Cherwell District Council. A legal agreement and a commonly agreed nominations or letting plan between the Council and Cherwell District Council would ensure that both are aligned with the arrangements for allocation of the properties on these sites and that a range of households’ housing needs are met.

6.4 Cherwell residents who have an Oxford local connection would need to complete an Oxford City Council housing application form in order to be considered for the properties. Cherwell housing applicants will be advised of the

additional opportunity afforded to them should they indicate an Oxford local connection on their Cherwell housing application form. This option removes most of the administrative burden on Cherwell District Council and shifts statutory housing functions and control of the allocation of the properties, on these sites only, to Oxford City Council.

6.5 Discussions between officers have considered a local lettings plan for the Cherwell sites to ensure that a balanced and mixed community is established from the outset. Such a lettings plan would balance provision to meet the housing needs of the city's homeless households, households in need of affordable general needs housing and housing transfer applicants. It could also incorporate opportunities to allocate a proportion of housing to health, social care, education, police and other key worker personnel. A clear, joint communication strategy would ensure that all customers are aware of the arrangements should this option be implemented.

7.0 Other implications

7.1 Consultation and communications

- A joint communication plan will be produced to inform residents, registered providers, support organisations and relevant ward and parish councillors about the development sites, the eligibility criteria and how to access the affordable housing.
- A 'Local Lettings Approach' document detailing how the Council will undertake allocations to these sites is to be developed by the Council to be agreed jointly between the various district councils. In particular, this would seek to ensure effective approaches to achieving balanced, mixed and sustainable communities on these new developments.
- The Council will monitor nominations and undertake to report back lettings data on the relevant sites to Cherwell District Council.

7.2 Governance and Review

- An officer steering group is working to prepare a draft agreement between the Council and Cherwell District Council for consideration.
- The agreement will cover the reporting mechanism for the number of dwellings let per quarter, the local connection criteria for each letting and, where not allocated to an Oxford resident, the number of dwellings re-allocated to Cherwell District Council for letting through their choice based lettings system.
- In addition, as it is intended that the agreement will cover a period of 10 years, it is anticipated that there will be a number of re-lets as residents' needs change and these will also be accounted for in the report.
- The monitoring report to be provided on a quarterly basis with an annual review and mid-term review (after 5 years) to check the allocations mechanism is still fit for purpose, and can be adjusted if necessary. A report detailing the numbers of units offered and allocated to Oxford residents,

including re-lets, in each local authority area versus the target allocation will be provided to Cabinet on an annual basis.

7.3 Human resources

- There are no additional human resources requirements.

8.0 Financial implications

No additional financial costs expected.

9.0 Legal issues

9.1 The agreement to utilise sites within the Cherwell district to provide housing, including affordable housing to meet an apportionment of Oxford's unmet need is already in place (The Oxfordshire Housing and Growth Board February 2018).

9.2 Cherwell District Council has resolved in principle to delegate its executive function under the Housing Act 1996 by way of section 101 of the Local Government Act 1972 in respect of specific properties which are identified as being delivered to meet Oxford's unmet housing need.

9.3 The proposed delegation will only apply to the functions under the Housing Act 1996 in respect of the specific properties which are identified as being delivered to meet Oxford's unmet housing need. Cherwell District Council will retain full control and powers over both the development of the housing on those sites, and all other statutory powers and functions arising in respect of such properties.

9.4 A formal agreement will need to be entered into between Oxford City Council and Cherwell District Council under sections 9EA and 19 of the Local Government Act 2000 and Regulation 5 of the Local Authorities (Arrangements for the Discharge Functions) (England) Regulations 2012 to delegate Cherwell District Council's statutory housing powers to the Council in respect of those properties. The agreement will provide that all of the responsibilities for the function in respect of those properties, and all of the liabilities arising in the discharge of those functions, will pass to Oxford City Council.

9.5 A further report will be prepared for consideration by the Cabinet once a delegation has been made by Cherwell District Council. Approval will also be sought to enter into an agreement to perform the function on behalf of Cherwell District Council.

10.0 Level of risk

- There is a risk of disappointment and frustration from residents living nearby to the proposed development sites where they may not be prioritised for

housing through absence of the local connection criteria. This will be mitigated by a clear joint communications plan.

- There is a risk that eligible Cherwell residents (those with a local connection) do not register with Oxford City. This risk can be mitigated by a clear communications plan and individual contact and support with eligible applicants by the CDC allocations team.
- Any risk associated with the performance by Oxford City Council in accepting the delegation of Cherwell District Council's statutory function has been considered with the council's housing allocations team and will be subject to a regular review and reporting procedure.

11.0 Equalities impact

There are no equalities impacts in relation to this report, however an Equalities Impact Assessment will need to be undertaken on the relevant allocations schemes, lettings plans and joint communication plans as they are developed to ensure the information is provided in the a suitable format to all residents, organisations, relevant ward and parish councillors.

12.0 Conclusion

This report recommends granting approval to proceed with the proposal to exercise the Duty to Cooperate under the Localism Act 2011 with Cherwell District Council and other neighbouring local authorities.

The Cabinet is being asked to agree in principle to accept a delegation from Cherwell District Council using section 102 of the Local Government Act 1972 (to perform its functions statutory housing functions in respect of properties identified in order to meet Oxford's unmet demand and) to note the agreed approach with West Oxfordshire District Council, Vale of White Horse District Council and South Oxfordshire District Council.

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Background Papers:	
1	Lead Member Briefing Paper – December 2020
2	Statement of Common Ground Agreements
3	CDC Report to Executive Planning Meeting - March 2020



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