

**To:** Council  
**Date:** 27 November 2023  
**Report of:** Head of Law and Governance  
**Title of Report:** Decisions taken under Part 17.9 of the Constitution

<b>Summary and recommendations</b>	
<b>Purpose of report:</b>	Council is asked to note the decision taken by the Executive Director (Development) under the provisions in Part 17.9 of the Constitution.
<b>Recommendation: That Council resolves to:</b>	
1. <b>Note</b> the decision taken as set out in the report.	

<b>Appendices</b>	
None	

## Introduction and background

1. This report updates Council on a decision taken by the Head of Paid Service (Chief Executive) under the provisions in Part 17.9 of the Council's Constitution.
2. Where the provisions under Part 17.9 are used the Constitution requires that the decision must be reported to the next ordinary Council meeting with the reasons why it was urgent.

## Decisions taken under Part 17.9

3. The following decision has been taken under the provisions in Part 17.9 of the Constitution. Council is asked to note the decision.
4. This report does not include decisions taken under the provisions of Part 17.9 of the Constitution that have previously been reported to Council.

<b>ITEM 1</b>	<b>TRANSFER OF THE COMPLETED DEVELOPMENT AT BRIDGES CROSS AT THE FORMER LUCY FAITHFULL HOUSE SITE ON SPEEDWELL STREET, OXFORD FROM OXFORD CITY HOUSING (DEVELOPMENT) LIMITED TO OXFORD CITY COUNCIL</b>
As the developed block at the property includes both private (10) and affordable housing units (26), the details for the structure for the purchase back of the	

developed site had to be agreed. The following has now been agreed:

The Council will enter into the following transactions:

1. OCHDL will grant a 999 year lease of the 26 affordable housing units to OCC for the consideration approved in July 2021 (and at a peppercorn rent). The premium for the lease is £10.25m in line with the original authority, this sum has been received by OCH(D)L through staged payments made by OCC in line with the 2021 decision.
2. On grant of the lease, the Council will release the charge it holds over the freehold property protecting advance payments (of the above consideration) which it has made.
3. OCHDL and the Council will enter into a management agreement under which the Council will manage the site, services, service charge and occupiers on behalf of OCHDL.
4. OCC and OCHDL will enter a forward sale agreement providing for OCC to purchase the freehold of the site for £1 once OCHDL has sold the final private unit.

All of the above will achieve the original intention of the Cabinet decision taken in 2019 which is to transfer the completed units back to the Council

<b>Date of decision:</b>	13 November 2023
<b>Decision taker</b>	Caroline Green, Chief Executive  Decision taken in consultation with: <ul style="list-style-type: none"> <li>• Councillor Linda Smith, Cabinet Member for Housing</li> <li>• Nigel Kennedy, Head of Financial Services</li> <li>• Emma Jackman, Head of Law and Governance</li> </ul>
<b>Was the decision taken under emergency or urgency rules?</b>	Constitution 17.9  <i>A decision to be taken cannot be called in if the Chair of the Scrutiny Committee, upon being consulted, agrees that:</i> <ul style="list-style-type: none"> <li>• <i>the decision to be taken is both urgent and reasonable and</i></li> <li>• <i>the delay caused by the call-in process would not be in the interests of the Council or the public.</i></li> </ul> <p><i>If the Chair of the Scrutiny Committee is not available, the Lord Mayor must agree that the decision to be taken is urgent and reasonable. If the Lord Mayor is not available, the Deputy Lord Mayor, Chief Executive or Monitoring Officer must agree.</i></p> <p><i>Decisions to which this rule applies must be identified on the notice of decision.</i></p> <p><i>Decisions to which this rule applies must be reported to the next ordinary Council meeting with the reasons why they were urgent. If the next meeting is within seven days of the decision being taken the decision taker will report to the next meeting after that.</i></p>
<b>Is this a Key</b>	Yes

<b>Decision?</b>	
<b>Reasons for decision</b>	The structure enables OCHDL to retain the income from the sale of the private units and removes risk for both parties.
<b>Alternative options considered:</b>	Not granting the lease or transferring the land, But OCHL are unable to dispose of the Shared Ownership or Affordable rented properties and they would have remained vacant.
<b>Wards significantly affected</b>	Osney and St Thomas

### **Financial issues**

5. The transfer by purchase of the land and the 26 affordable housing units from Oxford City Housing (Development) Limited by the Council's Housing Revenue Account (HRA) for a consideration of £10,250,000 in total. The consideration was initially taken in July 2021

### **Legal issues**

6. At its meeting on 29 May 2019, Cabinet delegated authority 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. The Assistant Chief Executive further delegated the decision to the Director of Housing.
7. The urgency provisions used to take the decision outlined in this report are set out in Part 17.9 of the Council's Constitution. In accordance with Part 17.9 of the Constitution, the Chair of the Scrutiny Committee, Councillor Lucy Pegg agreed that the taking of the decision was both urgent and reasonable, and that the delay caused by the call-in process would not be in the interests of the Council or the public.
8. Reasons for using the urgency provisions was because OCH(D)L had confirmed practical completion of Bridges Cross was anticipated on Monday 13<sup>th</sup> November. Practical completion triggered the transfer of the property back to Oxford City Council. 26 of the 36 of the units will be transferred back to OCC by way of long lease, these are the shared ownership and affordable rent units. OCH(D)L will then sell the other 10 of the units which are market sale. There is a forward sale agreement which triggered the transfer of the remainder of the freehold for £1 once OCH(D)L have completed the market sales.
9. There have been delays to this project, primarily due to utilities connections. There are a number of shared ownership units under offer in the development and the Council was at risk of losing these purchasers unless we completed the main transaction between OCC and OCH(D)L on Monday 13<sup>th</sup> November alongside practical completion to allow the individual sales to progress.
10. It had initially been thought that this decision could be taken as a non-key decision due to a previous decision being taken in 2021 to approve the value (£10.25m) of the transfer by purchase from OCC to OCH(D)L. The transaction had become more complex however and the arrangement now mean that a 999 lease, which is to be

entered in to lease the houses to the Council, will be the agreement under which the £10.25M is payable. The future transfer of the freehold title will take place for the sum of £1 once other conditional matters have been resolved. The decision to enter into this lease is therefore a key decision and there is now insufficient time to place on the forward plan and any delay will result in:

- a. delay in OCC's shared ownership sales; and
- b. delay in OCHDL's private sales (as the management agreement must first be completed/ put in place with OCC to manage the common parts)

11. There were already delays in this project due to the need to agree a complex structure between the parties with external legal input and a number of stakeholder services involved. Matters had become further protracted due to delays with utility providers providing connections. This had been a source of frustration for the flat purchasers and any further delay would risk:

- a. losing purchasers and having to remarket some of the units;
- b. reputational damage to the Council (and OCHDL); and
- c. an impact on OCHDL receiving its monies and in turn paying its dividends to the Council

<b>Report author</b>	Jonathan Malton
Job title	Committee and Member Services Manager
Service area or department	Law and Governance
Telephone	01865 529117
e-mail	<a href="mailto:jmalton@oxford.gov.uk">jmalton@oxford.gov.uk</a>

**Background Papers:** None