

To: Cabinet – 16 October 2024
Council – 25 November 2024

Report of: Executive Director (Development)

Title of Report: Acquisition of Social Rent properties at Barton Park into the Council’s Housing Revenue Account.

Summary and Recommendations	
Purpose of report:	To approve the acquisition of properties at Barton Park by the Council, including properties currently owned by Oxford City Housing (Investment) Limited, to be held in the Housing Revenue Account (HRA), recommending to Council an in-year budget change to the HRA Capital Budget and associated changes to the HRA Business Plan to fund and operationalise this.
Key decision:	Yes
Cabinet Member:	Councillor Linda Smith, Cabinet Member for Housing and Communities Councillor Ed Turner, Cabinet Member for Finance and Asset Management Councillor Nigel Chapman, Cabinet Member for Citizen Focused Services and Council Companies
Corporate Priority:	More Affordable Housing and Meeting Housing Needs
Policy Framework:	Corporate Strategy 2024-28
Recommendations: That Cabinet resolves to:	
1.	Subject to approval of the budget allocation by Council, agree that: (i) the Council take a transfer of the 168 residential units from OCH(I)L at Barton Park into the HRA; (ii) That the Council acquire the remaining 184 units at Barton Park that units directly from the developer Barton (Oxford) LLP and retain them in the HRA;
2.	Note the single member decision of Councillor Linda Smith, dated 19 September 2024, to approve acquisition from the developer into the HRA of the 10 units OCH(I)L were due to acquire between September and 26 th November 2024, (included in the 184 homes above);
3.	Subject to budget allocation by Council, to delegate authority to the Executive Director (Development), in consultation with the Executive

Director (Communities and People); the Cabinet Member for Housing and Communities; the Cabinet Member for Finance and Asset Management; the Cabinet Member for Citizen Focused Services and Council Companies; the Head of Financial Services/Section 151 Officer and the Council's Monitoring Officer, to:

- (i) agree the terms of the acquisition, of both the freehold and leasehold interests of the 168 units held by OCH(I)L and any associated land using the valuation approach as set out in Appendix 5;
- (ii) agree to the purchase of the remaining 184 Social Rented properties and any associated land from Barton Park in accordance with the agreement with Barton Oxford LLP and Oxford City Council dated December 2014;
- (iii) enter into all agreements necessary, where delegation does not already exist, to facilitate the transfer of the properties at i and ii above, including but not limited to, any documentation necessary to transfer the benefit of any continuing warranties and guarantees relating to the properties to the Council; and

4. Recommend to Council to:

- (i) approve a capital budget of £39,732,981 in accordance with the table at para 27, to finance the acquisition of all the Barton properties from OCH(I)L into the HRA (168 units at a cost of £33,375,324), plus a further 29 additional units directly from the developers at a total cost of £6,357,657, funded predominantly from additional borrowing. This additional spend to be profiled into the 2024/25 financial year. The expenditure incurred in respect of the 10 units as per the Single Member decision (Noted in 2 above) will then be transferred and allocated to this new budget;
- (ii) approve a further revision to the HRA capital budget of £33,359,780 profiled into years 2025/26, 2026/27 & 2027/28, to provide for the retention of the further Social Rent homes from the developer at Barton Park funded predominantly from additional borrowing;
- (iii) note that the budget for loans to Oxford City Housing Limited (OCHL) for the future purchases of Barton properties included within the Council's capital programme and HRA income and expenditure for the properties purchased will also be adjusted as necessary to reflect the new ownership. These properties are listed in Appendices 1 and 2, and 3;
- (iv) note that the total additional borrowing required by the HRA may be lower if other funding is able to be used (for example Retained Right to Buy Receipts) or the council chooses to utilise the option within the agreement with the Limited Liability Partnership (LLP) to sell up to 100 of the homes acquired from Barton Park to a third party Registered Provider. Either of these options would be subject to another Cabinet Decision; and
- (v) note that in recognition of the volatility of the housing market and, therefore, that there may be an increase in costs of acquisitions in

future years that the Head of Financial Services (Section 151 Officer) may alter the budgets for the above acquisitions at ii so as to increase it provided that such increase is possible within the envelope of the approved HRA capital budget at that point in time and such changes being reported to Council in the quarterly budget reporting / budget update.

Appendices

Appendix 1	Schedule of properties (at Social Rent and mostly tenanted) proposed to be purchased from Oxford City Housing (Investment) Limited into the HRA
Appendix 2	Schedule of (Social Rent) properties (at Social Rent) covered by Single Member Decision
Appendix 3	Schedule of (Social Rent) properties to complete in later phases of the Barton Park development – where provision is proposed to cover the possible purchase into the HRA (retention of the homes by the Council and not selling these on to OCHL)
Appendix 4	Summary of all property types and delivery status
Appendix 5	Summary of financial appraisals (including property valuation and cost information) (not for publication – Information relating to the financial or business affairs of any particular person (including the authority holding that information))
Appendix 6	Background as to the necessity for the recommendations. (not for publication – Information relating to the financial or business affairs of any particular person (including the authority holding that information))
Appendix 7	Legal Comments (not for publication - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.)
Appendix 8	Risk Register (not for publication – Information relating to the financial or business affairs of any particular person (including the authority holding that information))

Introduction and background

1. In 2013 the Council took a decision to enter a legal agreement with Barton (Oxford) LLP (BOLLP) to purchase all the Social Rent homes developed on Barton Park (40% of the development, up to 354 homes). This agreement was entered into in December 2014.
2. The City Executive Board and the OCHL Shareholder subsequently approved the purchase from the Council by OCH(I)L of the social rented homes being developed at Barton Park. This was in order to ensure a balanced HRA business plan, following the Governments Budget in 2015 that significantly and negatively impacted HRA financing and risk. This programme of acquisition was expected to comprise 354 homes (all at Social Rent) across all phases of the scheme. Detailed background to the history of the development and decisions previously agreed by the City Executive, Cabinet and Council can be found in the three background papers made available with this report.
3. Phase 1 of Barton Park delivered 95 Social Rent homes between 2018/19 and 2020/21. Delivery is concluding on phase 3 where, by the end of 2024/25 a total of 83 Social Rent homes will have been completed. At the same time, phases 2 and 4 are beginning to deliver with 52 homes forecast to complete by the end of this financial year (from a total of 174 Social Rent homes). The remainder of these homes are scheduled to be handed over by the end of 2027/28. The Barton 3B site has yet to be brought forward for delivery.
4. This report seeks to secure Cabinet approvals and delegations, as well as to seek that Cabinet agree to recommend to Council budget allocations, to enable the acquisition of circa 352 homes to the end of Redrow (Phase 3) and Vistry (Phases 2 and 4) Barton Park developments, for the HRA. Previous reports have referred to up to 354 properties. The reason this is 352 rather than 354 homes is because it does not include Phase 3b which currently does not have a delivery plan. Budget provision has not been included for the remaining 2 units given the uncertainty of timeframes. The reason the approach is being reconsidered is set out in the confidential Appendix 6.
5. The report and proposed transaction relate only to OCH(I)L, a subsidiary of Oxford City Housing Limited (OCHL). The housing company continues to deliver an extensive programme of development schemes in accordance with the OCHL business plan, with the affordable homes continuing to be purchased by the Council and held in the HRA.
6. The properties to be acquired fall within two categories, those owned by Oxford City Housing (Investment) Limited, the investment and stock holding company, a subsidiary of OCHL, the Council's wholly owned housing company and those which have yet to be developed at Barton Park and transferred to OCH(I)L, which will be acquired from Redrow (Phase 3) and Vistry (Phases 2 and 4).
7. In addition to this it is noted in the recommendations that a decision has already been taken to secure the acquisition of 10 properties which will require transfer prior to a decision of Council on the budget. This includes a decision as to virement of funds within the HRA Capital Budget, as set out in the Financial Issues section of this report.

8. In relation to the properties held by OCH(I)L, they will all be tenanted unless there are any voids at the point of transfer. Appendix 1 details the properties expected in this transaction.
9. Tenants sign an Assured Tenancy for these homes, with additional rights, such as the ability to mutually exchange homes, akin to a social housing tenancy. Although the landlord is OCH(I)L, the Council is contracted to act as agent, undertaking all management and maintenance functions, including rent collection, in the same manner as for its existing housing stock.

Proposal for the purchase of homes from OCH(I)L

10. A number of options have been looked at to improve the financial position of OCH(I)L as detailed in the confidential Appendix 6. The recommended option is the purchase of houses by the HRA as contained within this report.
11. Legacy costs, together with adverse economic conditions, primarily associated with rising borrowing costs in recent years, which are higher for OCH(I)L than for the HRA, have been the main contributing factors that have led to a review of the arrangements with the Council and housing company. It is proposed that the Council should enter into an agreement with OCH(I)L for the purchase of the completed affordable homes, and associated land, to be held as Social Rent housing in the HRA. The Council will need to allocate sufficient budget in the HRA Capital Budget for this purpose, amending the HRA business plan and revenue budgets accordingly.
12. The purchase proposed from OCH(I)L is based on the valuation approach as set out in Appendix 5. This ensures best value for the HRA and will reduce the risk to the Council and improve the financial position of the OCHL group as outlined in confidential Appendix 5. The OCHL shareholder and the OCHL Board have been part of the development of the proposals and are in agreement with the principle of the transfers to OCC.

Existing Tenants

13. Though the homes are currently owned by OCH(I)L they have been let via the Council's Allocation Scheme. As such those tenants would be eligible for this housing when held by the Council. This is important to note as it means that there are no concerns with the eligibility of the tenants to the tenancies.
14. It is proposed that tenants occupying the existing units held by OCH(I)L will be offered new Secure Tenancy agreements upon acquisition by the Council. The terms of these tenancy agreements will be enhanced from the Assured tenancies currently in place, for example, they will provide tenants with additional rights, such as the Right to Buy and greater rights in the event of succession (on the passing of the named tenant(s)). Properties yet to be occupied (or void at the point of transfer) will be let as usual Council tenancies, also at Social Rent levels.
15. This transition will be managed in-house with Landlord Services, with tenants kept informed as to the planned changes.
16. Rents will be re-calculated from monthly to weekly, and Universal Credit/ Housing Benefit arrangements will be made accordingly. No tenant will pay more rent under the new approach. The annual OCH(I)L rent uplifts – applied monthly on the yearly anniversary of tenancy start dates – will end at the end of October. Any rent arrears at the end of November will become sundry debts with OCH(I)L, and this

has been included in the financial modelling undertaken by OCHL. Those OCH(I)L tenants that opted to have furnished tenancy items provided, will have those items gifted to them.

17. This cabinet report seeks approval from Cabinet to recommend to Council a new HRA capital budget of £39,732,981 for the 2024/25 financial year. This will finance the acquisition of 168 Barton properties from OCH(I)L into the HRA, as well as a further 29 additional units directly from the developer (197 units in total). The Council will purchase back the stock held by OCH(I)L, with a target date for these transactions of 29th November 2024. OCH(I)L tenancies would terminate at the end of November 2024, and new Council tenancies would start from Monday 2nd December 2024. A summary of property types by phase is available in Appendix 4.

Proposal for the acquisition of future homes in the HRA

18. It is proposed that the Council should acquire the remaining 174 units from Barton directly into the HRA. Details of properties to be acquired are listed in Appendix 3 with a summary in Appendix 4. Ten further properties (Appendix 2) are covered by a Single Member Decision, these being the homes expected to handover between September 2024 and 25th November 2024. These 184 properties will be retained in the HRA and not be sold on to OCH(I)L. This removes OCH(I)L involvement in any forthcoming properties from this development. The Council will need to allocate sufficient future capital budget in the HRA for this purpose in future years, amending the HRA business plan and revenue budgets accordingly.
19. This Cabinet report seeks approval for a new HRA capital budget of £33,359,780 profiled over 2025/26, 2026/27 and 2027/28, to provide for the retention of the further Social Rent homes from the developer funded predominantly by borrowing. This will finance the acquisition of 155 Barton Park properties directly from the developers.

Financial implications

20. The addition of these homes into the HRA are manageable, with the HRA able to borrow more advantageously than the housing company (at discounted Public Works Loan Board (PWLB) rates); over a longer payback period; and by balancing any short-term issues against income from its far larger stock holding. Whilst HRA debt increases, this is serviceable, and additional homes in the HRA has a number of benefits, including supporting the HRA to share overhead costs over a larger asset base. As set out below, after an initial period, the financial impact to HRA revenue budgets is also positive.
21. To comply with State Aid and Subsidy Control rules, the Council currently levies an uplift of 1.5% to the PWLB rate applied to the cumulative loan balance owed by the company. This additional income stream will be foregone following the transfer of assets to the HRA. The estimated forecast amounts of uplift on the interest income that will no longer be received by the council's general fund are as follows:

Financial Year	Cumulative Loan to Company	Uplift on interest charge
2024/25	£24,000,000	£360,000
2025/26	£36,210,246	£543,154
2026/27	£50,213,225	£753,198
2027/28	£61,092,725	£916,391
2028/29 onwards	£69,570,026	£1,043,550

The impacts of this will need to be picked up in future budget monitoring and planning exercises, although it should be noted that they are nested within budget expectations for interest payable and received more generally, which have in the recent past shown positive variation.

22. There are two tranches of 5 properties (10 in total) due to be bought by the council between the beginning of September and the end of November 2024. The total anticipated cost of acquiring these 10 properties is £2.145million. By purchasing these directly into the HRA there will be approximately £40,000 of savings on Stamp Duty Land Tax (SDLT) and a reduction in the administrative costs of transferring the properties into the HRA later. It also enables the properties to be let immediately from within the HRA. It is therefore financially beneficial to the council to purchase these directly into the HRA.
23. It is proposed that these two tranches can be charged to the HRA capital code for 'Purchases of properties from OX Place' by a single member decision. This change, albeit temporary until this report has been presented to council, can be accommodated using para 18.13 of the Constitution:

Where monies cannot be vired from other schemes or the overspend is in excess of £250,000 the projected overspend must be reported to the Cabinet and subsequently Council requesting a supplementary estimate if required. Where a scheme is within the capital programme and it is not possible for it to progress in a particular year or where it is progressing faster than anticipated, the Head of Financial Services in conjunction with the Development Board can move the approved capital budget for a scheme between financial years across the Medium Term Financial Strategy providing that the overall budget for the scheme is not exceeded and capital financing resources are available to finance the scheme

24. *In addition, para 8.7.4 of the Councils capital strategy agreed at Cabinet in February 2024 states:*

Where capital projects are developed in year, i.e. after the approval at full Council in February of the budget and Capital Programme, Cabinet may approve any capital project for which there is funds within the approved capital budget as approved by full Council.

25. The decision to proceed with this transfer of properties is supported by HRA financial appraisals/ financial modelling to ensure that financial parameters and requirements are met, and that the Interest Cover position for the HRA is not disadvantaged. Details are included in Appendix 5.

26. Financial modelling of the proposed acquisitions of the Barton properties produced the following results that meet the required financial parameters for the HRA (shown in brackets):

- Payback of 38 Years (Maximum 70 Years)
- IRR of 6.22% (Minimum 3%)
- NPV of £34,975,311 (Positive NPV over 70 Years)
- HRA ICR – minimum requirement of 1.25 not breached.
- The transfer value of the homes (inc interest) are significantly below assessed open market values

27. HRA debt (and peak debt) will increase as a result of this proposal, but the HRA financial position is shown to be only marginally impacted and still achieve the minimum Interest Cover Ratio (ICR). This is considered a worst-case position and, particularly for the future units, we will look at other mitigations e.g. possible use of Retained Right to Buy Receipts.

Finance Table 1 Capital Budgets Required	2024/25	2025/26	2026/27	2027/28	Total
	£	£	£	£	£
Purchase Price	£38,567,256	£11,791,088	£9,176,296	£7,253,347	£66,787,987
Associated Costs of Acquisitions	£648,947	£938,892	£714,159	£453,290	£2,755,288
Contingency at 10%	£516,778	£1,272,998	£989,045	£770,664	£3,549,486
Total	£39,732,981	£14,002,979	£10,879,500	£8,477,301	£73,092,761

Finance Table 2 HRA Interest Cover Ratio (ICR)	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32	32/33
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Current ICR	1.49	1.32	1.34	1.41	1.34	1.27	1.32	1.31	1.37
Additional Rental Income (£)	1,346	2,033	2,363	2,901	3,030	3,084	3,138	3,193	3,249
Additional Interest costs (£)	1,640	2,297	2,653	3,187	3,397	3,397	3,397	3,397	3,397
Revised ICR	1.41	1.26	1.28	1.34	1.28	1.24	1.28	1.27	1.33

28. The ICR is an indicator of how well the HRA can cover its financing costs. This is shown as a ratio of surplus (before interest) to interest cost and effectively shows how many times it can cover the interest using the surplus generated. The current target minimum is 1.25 which is achieved for each year.

29. The assumptions made in producing the above tables are as follows:

- HRA discounted PWLB borrowing rate of 4.51%

- Annual Rent Increase of 2% (target CPI)
 - Contingency of 10% on estimated future purchase values
30. The Council also has the option, under the umbrella agreement with BOLLP to novate up to 100 units to another Registered Provider subject to specific terms. This could be explored if needed in the future. This would need to be considered against the terms of the Development Agreement for the specific phase. Moreover, the council could look to vary the agreement(s) with housebuilders if it was deemed necessary to go further than this. Once purchased, after first occupation there are no restrictions under the agreement with BOLLP regarding future disposal, however, general rules on social housing disposals, and planning consents, will apply. If the council disposed pre-occupation the Council must pay to the LLP any payment received in excess of the Affordable Dwelling Purchase Price less the Council's properly incurred legal and professional costs for entering into the relevant transfer/lease. This would require further Cabinet report and Cabinet/ Council approvals.
31. The Council has considered whether other funding/ subsidy schemes might be able to be used to support the purchase of the existing socially rented properties at Barton Park, including the use of Retained Right to Buy Receipts, but this is not possible as these receipts cannot be used to purchase existing socially rented dwellings, and as such these options have been discounted. However, following the recent announcement by the government, the purchase of the additional units direct from the developer could be funded using Retained Right to Buy Receipts up to 100% of the eligible acquisition costs. Further financial information is summarised in Appendix 5. This would potentially reduce the affordable housing delivery programme however (as Cabinet and Council have approved spend plans for these funds and allocated budget in the MTFP for these projects) and would require further Cabinet and/or Council approvals.
32. Following the sale of assets from OCH(I)L to the HRA the Housing Company will be in a position to sign-off its 2023-24 accounts and confirm the dividend payment due to the City Council.

Legal issues

33. These legal comments should be read in conjunction with confidential Appendix 7.
34. The City Council entered into an overarching agreement with BOLLP in 2014, under which they agreed to acquire the 354 social rented homes being delivered at the site as part of the consent for up to 885 homes. The agreement also includes accepting the transfer of any "additional land" if the LLP acquire it.
35. This is set out in the 2013 decision. If OCH(I)L are no longer able to hold the units, the council is obligated to take back direct ownership of the existing stock and purchase remaining units directly into the HRA by operation of the 2014 agreement with the LLP.
36. The comments in the confidential Appendix 6 should be noted. The activities, as set out in this report, relate to activity for the purpose of acquiring affordable housing. This is within the Council's statutory powers.

37. The Council is a Registered Provider, registered with the Regulator of Social Housing.

Level of risk

38. Any risks inherent in this programme are already identified elsewhere, with actions to mitigate these detailed in the OCHL and HRA Business Plans and the Council's Medium Term Financial Plan.

39. Refer to Appendix 8 for the Risk Register.

Equalities impact

40. The council is already committed under the 2014 legal agreement to acquire the units. It is considered that there are no adverse impacts in undertaking this activity, with the potential to improve provision for persons in housing need, through the extension of additional tenancy rights to tenants under a new Secure Tenancy agreement with the Council.

Carbon and Environmental Considerations

41. There are no carbon or environmental considerations in relation to the acquisition and appropriation to the HRA of these homes. The homes themselves are highly energy efficient currently securing an EPC 'A' rating, which will also improve the overall position of the HRA with regard to the number of homes at EPC 'C' or above.

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Background Papers:

City Executive Board report "Barton - Acquisition of Affordable Housing" 10 July 2013

City Executive Board report "A Housing Company for Oxford" 17 March 2016

Cabinet report "The future strategic direction for the Council's group of housing companies" 29 May 2019

Single Member Decision Acquisition of Social Rent properties at Barton Park into the Council's Housing Revenue Account.