

REPORT TO:	CABINET 29th September 2014
AGENDA ITEM:	8
SUBJECT:	WHOLLY OWNED HOUSING COMPANY – AN OPTION FOR TACKLING THE SHORTAGE OF HOMES IN CROYDON
LEAD OFFICER:	Richard Simpson, Director of Finance and Assets And Jo Negrini, Executive Director of Development and Environment
CABINET MEMBER:	Cllr Alison Butler, Deputy Leader and Cabinet Member for Homes and Communities And Councillor Simon Hall, Cabinet Member for Finance and Treasury.
WARDS:	All Wards
CORPORATE PRIORITY/POLICY CONTEXT: The establishment of a wholly owned housing company addresses two strategic objectives of the Council's Housing Strategy 'Optimising the supply of new housing' and 'Managing and sustaining strong, successful and thriving communities'. The company will also support delivery of the Mayor's London Plan, the London Housing Strategy and Croydon's Local Plan requirements and targets for new homes. The company is a key intervention for the delivery of the Council's Growth Plan promise on Housing: Making a Great Place to Live'.	
FINANCIAL IMPACT SUMMARY: It is estimated that a budget of £25k will be required to take the business case to the next stage for Cabinet early in 2015. That further work will set out the detailed financial considerations associated with the creation of the company.	
KEY DECISION REFERENCE NO.: This is not a key decision	

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

Cabinet is requested to:

- 1.1 Agree the principle of the establishment by the Council of a wholly Council owned housing company**
- 1.2 Agree that further work should be undertaken by officers to develop the proposal as set out in section 6 of this report.**
- 1.3 Note the intention to present a development programme and Business Case to Cabinet in the first quarter of 2015 in relation to seeking agreement to proceed to establish the new wholly owned housing company.**

2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to set out the case for the Council to establish a new wholly owned housing company in order to tackle the shortage of homes in Croydon and, in particular, the shortage of affordable homes.
- 2.2 The Council's existing New Build programme of affordable housing for rent, managed and largely financed through the Housing Revenue account (HRA), has successfully delivered 100 affordable homes for rent, and a further 200 to be delivered by a construction programme that currently runs through to 2018. However, current government limitations on borrowing within the HRA restrict the capacity for the level of affordable housing needing to be delivered in Croydon.
- 2.3 The report therefore seeks support for the proposal to establish a wholly owned new housing company in order to accelerate the delivery of more affordable housing for local people.
- 2.4 The report sets out:
 - the case for a new company to tackle the housing shortage and significantly increase the supply of more affordable housing;
 - costs and principal risks in setting up the new company;
 - the next steps including the development of a viable development programme and Business Case.

3. THE NEED TO INCREASE THE SUPPLY OF AFFORDABLE HOUSING

- 3.1 The reason for setting up a new wholly owned housing company is to address the severe shortage of homes in Croydon and, as a priority, increase the supply of affordable homes.
- 3.2 The current housing market is not working for many local people. Croydon, together with London as a whole, is facing a serious shortage of homes of all tenures and, in particular, a shortage of good quality homes which are more affordable to people on lower to middle incomes. The shortage of homes pushing up market sales prices and rents to unaffordable levels means the market is simply not working for many local people

The Housing Shortage and the need to increase supply

- 3.3 In Croydon the Council has 5,440 households on its Housing Register in April 2014, with many more people in need of housing not on the Register. Homelessness has increased by 18% in the last 2 years, more sharply than the London average of 9%. More than 2000 households are currently in temporary accommodation for homeless households and the pressures of increasing homelessness mean that nearly 10% of the Council's homes are currently being used for this purpose; an unsustainable situation.
- 3.4 London has a serious shortage of homes requiring more than 42,000¹ to be built per year, compared to the 20,000 annually completed in recent years. Croydon's Strategic Housing Market assessment and Local Plan considers Croydon requiring 27,000 new homes between 2012-31. Taking account of completions in the first three years of this period, 14,300 homes are required in the 10 years from 2014/15 to 2024/25 -1430 per year.
- 3.5 **To tackle this shortage the supply of new homes needs to dramatically increase.** Delivery of market homes has averaged 509 homes per year between 2009/10 and 2013/14, these needs to rise to 933 to consistently meet the Local Plan target. Whilst completion rates for Affordable Housing have averaged 569 between 2009/10 and 2013/14 against a target for 2015/25 of 502, the delivery forecasts² for Affordable Housing starts between 2014/15 and 2017/18 average 400 per year, 102 less than the target, and 20% of total starts.
- 3.6 **Not only is there a need for more affordable homes but these homes also need to be more affordable.** Rising sales prices and mortgage restrictions mean that many Croydon households cannot afford to purchase a home in the borough³. Renting privately is also more expensive with average 2 bedroom flats requiring annual household income of £37,000 to be

¹ Estimates vary up to 60,000, 42,000 if from 'Homes for London' the Mayor's London Housing Strategy 2014.

² Based on the July 2014 review of the Council's 5 Year Housing Delivery Plan.

³ A recent report by Shelter (October 2013) found that 99% of single people and 97% of typical Croydon couples with children **could not afford to buy** in the borough, and only 76% of couples without children

affordable, and many claimants in housing need being shut out from the sector⁴.

- 3.7 Many Registered Providers (housing associations) have worked hard to deliver affordable housing in Croydon, despite development challenges posed by the funding model introduced in 2011. As a result 44% of larger homes in the 2011-15 programme set rents at 70% of market rent or below. However, only 32% of smaller homes were set at this level. With the remaining 68% of smaller homes rent levels have been set closer to 80% of market rents, in order to achieve a financially viable scheme. Across the programme rents averaged £802 per month for a 2 bedroom or £900 for a 3 bedroom home, 35% and 39% of average income respectively.
- 3.8 The Croydon Council New Build housing programme to date has been able to set rents at 65% of market rents, making them more affordable, with average monthly rents for a 2 bedroom of £516 and for a 3 bedroom £602⁵.
- 3.9 However, the financial constraints on the Council's Housing Revenue account (HRA) mean new options to deliver an increase in affordable housing are required.

Constraints on the HRA – Limited borrowing headroom

- 3.10 For the last 8 years the new build programme has delivered 100 homes and currently has a further 109 being delivered. In addition, a further phase is being planned for 104 homes, partially supported by £2.9m of the GLA's Affordable Housing Grant.
- 3.11 All homes to date are for Affordable Rent and are funded and delivered within the HRA using its' resources. This has and does assume funding of £6 million per year to support the new build programme up to 2018/19 plus and additional £2m from reserves in 2016/17 and 2017/18. However, there is limited borrowing headroom within the HRA and it is expected that the borrowing cap will be reached by the end of 2015/16 which will mean no further borrowing capacity for the next 28 years when the first repayment of the self-financing loan is due to be redeemed.
- 3.12 The conclusions from this analysis are therefore that:
- the limitations on the Council's new build programme, funded by the HRA , mean it cannot significantly increase the supply of affordable homes;

⁴ London Rent Watch: Rent Inflation and Affordability in London's private rental market, Shelter, March 2012 & Croydon CAB Survey July 2014.

⁵ To put these rents in perspective, in 2011 in the four Croydon wards with lowest incomes (Fieldway, New Addington, Broad Green and Selhurst) average annual household income was £27,294, that is £2275 monthly.

- the nature of the current funding models for registered providers can provide a proportion of valuable affordable housing, but provision is likely to be at rents closer to 80% of market rents;

- a new intervention is required to significantly increase the supply of affordable homes in rented and home ownership sectors, which would also give the Council a major stake in housing development. A wholly owned housing company can enable this.

3.13 The Council can use the General Power of Competence in the Localism Act 2011 to provide housing within a 100% Council-owned company as the Act provides local authorities with "the legal capacity to do anything that an individual can do that is not specifically prohibited".

4. THE POTENTIAL OF A WHOLLY OWNED COMPANY

4.1 A new wholly owned housing company limited by shares (CLS), has the potential to increase the supply of affordable homes through:

- the provision of new affordable housing outside of the HRA;
- the provision of mixed tenure development including social rent, affordable rent, low cost home ownership and market sale, with market sales subsidising the provision of the affordable tenures.

4.2 The company also offers the potential to

- generate of a long term surplus in the General Fund ;
- provide a vehicle for future regeneration projects which could include community facilities.

4.3 A housing company is liberated from many of the constraints of the HRA. It can overcome the borrowing, and therefore funding, limitations of the HRA where there is limited headroom through accessing Prudential Borrowing, although as it is likely that the company would be "on balance sheet" which would preclude access to certain government loans for new housing which are available to private sector developers including Registered Providers e.g. London Housing Bank

4.4 A separate company has greater flexibility on tenure and offers the ability to develop mixed tenure schemes including homes for sale, shared ownership, and most importantly, rented accommodation at social/affordable/market rents. This flexibility can enable cross subsidy between tenures, with market sale or rent homes enabling the provision of more affordable homes which would be the priority for the company.

4.5 The flexibility can extend to units built for sale. The flexibility does not necessarily mean that market normalities need to be followed, for example the benefits to households of security of tenure could be secured through private rented sector (PRS) tenancies or leases with longer fixed term durations.

4.6 New tenancies or leases created for housing by a CLS outside of the HRA could take different forms (including short-hold assured tenancies, assured tenancies and leasehold arrangements). There are a number of differences between the tenancy types but a key difference is that, under this arrangement, as the tenancy is granted by the CLS rather than the Council, it does not fall within the secure tenancy provisions of the Housing Act 1985, such that tenants will not have the "Right to Buy" (RTB).

4.7 The company could take advantage of a range of potential housing development opportunities in the coming years such as:

On Council owned land including:

- housing estate regeneration schemes;
- development on selected sheltered housing schemes;
- other smaller scale sites including garage sites not on housing estates;

On currently third party owned sites.

4.8 The company could access a range of funding sources including Prudential borrowing via the General Fund, s106 commuted sums for housing, council land and voids, equity investment through the Council purchasing shares, or third party investment. The Council's Pension Fund could also potentially make a contribution.

4.9 A company through its development and management programme can also secure a long term income stream and can, in certain cases, ease pressure on the HRA allowing more resources for stock investment.

4.10 The company could also have an arm which specialised in the provision of PRS which could also bring revenue back to the Council.

4.11 The company could also potentially contract services from the Council, including Croydon Landlord Services, to support its' activities should they offer best value.

Operational Local Authority Housing Companies

4.12 A range of Councils have established companies limited by shares to provide different types of housing, for example: LB Hammersmith and Fulham with 7 sites on Council housing estates to provide below market value home ownership; Wokingham Council (Berkshire) to develop 75 homes for social rent, sub market rent and shared ownership; Woking Council (Surrey) to develop (including purchasing) 287 homes for affordable and intermediate rent, and some temporary accommodation for homeless families; South Holland Council (Lincolnshire) to build homes for social rent and affordable home ownership plus managing affordable homes built by private developers as part of their planning obligations; Thurrock Council (Essex) to develop 350 homes on Council land in first phase across a range of tenures, but mostly at 80% of market rent; LB Newham to commercially develop, purchase and manage homes let for market rent and affordable rent, and affordable home

ownership (shared equity). Its' Business Plan aims to build 3000 properties and acquire 518 street properties; LB Ealing to develop 500 new homes for affordable rent and market rent; LB Enfield to acquire and manage temporary accommodation for homeless households; LB Barking and Dagenham to develop 477 homes at 80% market rent on two Council owned sites.

Existing Company - Croydon Homes Limited

- 4.13 The Council does have an existing wholly owned company set up and incorporated as Croydon Homes Limited in 2008, a not for profit company, registered under the Industrial and Provident Societies Act 1965; it is dormant and not registered as a provider with the Homes and Communities Agency.
- 4.14 Whilst **Croydon Homes** would offer tax efficiencies in relation to Stamp Duty on land transactions and corporation tax on profits, it could only provide affordable housing and **would not be able to develop mixed tenure schemes**; any surpluses could be restricted to use for its charitable purposes and may not be available for other general fund projects.
- 4.15 The next stage of work will assess the value of reactivating Croydon Homes.

5. COSTS AND RISKS OF A COMPANY

- 5.1 The next stage of work will consider in some detail the business case for the company. It is expected that there would be costs associated with the establishment of the company and from comparable companies these are estimated at £200k
- 5.2 The most significant **financial risk** is likely to be the company not being able to repay its loans to the Council, due to unexpected changes in market conditions. This necessitates a robust business plan based on a financial model with a strong sensitivity analysis to reflect changes in key indicators such as: build costs; sales values; operating costs; rent inflation; house price inflation; PWLB (or other) loan rates; interest rate to the company; and general inflation. This will enable the Business Case to be maintained as robust.
- 5.3 **Key commercial considerations** to be appraised and validated by the company's financial model will be:
- a. the impact on the General Fund to ensure that additional charges are offset by net income received from the company (in respect of interest on any loans)
 - b. ;
 - c. the consolidation of the company's accounts into the Council's accounts to show that the company is financially viable;
 - d. the company is able to cover its interest costs from net rental income and disposals;
 - e. repayment of General Fund loan funding and returns on GF investment in the company can be met from income over time;
 - f. assurance that transactions represent both best value and are state aid compliant

5.4 There will be **legal and financial issues** in transferring land from HRA to the company. On units for sale, options can include an overage mechanism on the land transfer (from the HRA) to ensure some of the profits from the sale were made available to support council capital investment needs.

6. THE NEXT STEPS

6.1 To progress the housing company proposals in this report the next steps are to:

- (i) identify firm potential sites and opportunities for the development programme;
- (ii) undertake a full financial option appraisal (including tax advice) of housing delivery options, including comparison with registered providers, and funding sources;
- (iii) negotiate support, and where necessary approval, for the company's approach from the Mayor and DCLG (for example on certain HRA land disposals);
- (iv) providing the appraisal recommends the setting up of the new housing company limited by shares, prepare a Full Business Case including an initial development programme;
- (v) obtain independent legal advice on the articles of association of the new housing company and any other legal requirements;
- (vi) examine the scope for activating the dormant Croydon Homes Company as a partner for the new housing company focusing on Affordable Homes and management of the new housing company's affordable portfolio.

6.2 On completion of these steps a development programme and Business case will be presented to Cabinet in the first quarter of 2015 in relation to seeking agreement to proceed to establish the new wholly owned housing company.

7. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

7.1 In order to progress to the next stage it is estimated that a budget of £25k is required; this can be funded from earmarked reserves put in place to support the range of work being undertaken on growth and investment. If a company is established there will need to be some specialist legal and financial advice to ensure the interests of the council are protected. The full costs and details will be included in the draft business case to be presented to Cabinet in the first quarter of 2015. In the longer term the increase in housing supply, particularly affordable housing, will help alleviate the current position regarding homelessness. This in turn should reduce pressures on the homelessness budgets.

Approved by: Lisa Taylor – Head of Finance and Deputy S151 Officer.

8. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 8.1 The Council Solicitor comments that there are no immediate legal considerations beyond those detailed in the body of the report but on-going advice will be provided as the proposal is developed.

(Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor and Monitoring Officer)

9. HUMAN RESOURCES IMPACT

- 9.1 There are no human resources implications arising from this report.

(Approved by Adrian Prescod, HR Business Partner, for and on behalf of Interim Director of Human Resources, Chief Executive department).

10. EQUALITIES IMPACT

- 10.1 An Initial Equality Impact Analysis (EA) has identified a number of potential equality issues including:

- the shortage of housing which can undermine community cohesion and resilience ;
- a higher proportion of Black and minority ethnic households applying for housing through the Housing Register compared to the general population;
- Black and minority ethnic households being more likely to live in overcrowded accommodation, to be otherwise unsuitably housed and are over-represented amongst households accepted as homeless in Croydon;
- the need for more housing that is wheelchair accessible, built to, Lifetime Home standards and meets other mobility standards, for example downstairs facilities, level access and space for equipment;
- the prevalence of health inequalities across the borough which can be partly addressed by more and better quality homes;
- meeting rising housing need through maximising the supply of new homes will improve outcomes for protected groups that are over represented on the Council's Housing Register and amongst those groups currently unable to afford market homes for rent, shared ownership or sale.

- 10.2 A full EA will therefore need to be produced and this will be completed with the Business Case.

- 10.3 The equality analysis will enable the Council to ensure that it meets the statutory obligation in the exercise of its functions to address the Public Sector equality duty (PSED). This requires public bodies to ensure due regard to the need to advance equality of opportunity; foster good relations between people who share a "protected characteristic" and those who do not act and take action to eliminate the potential of discrimination in the provision of services.

(Approved by Sharon Godman – Head of Equalities and Community Relations)

11. ENVIRONMENTAL IMPACT

11.1 There are no immediate environmental impacts arising from this report.

12. CRIME AND DISORDER REDUCTION IMPACT

12.1 There are no immediate crime and disorder reduction impacts arising from this report.

13. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

13.1 The proposed decision to consider setting up a new Council wholly owned housing company, and to undertake further work to develop the proposal including a development programme and Business case is recommended because:

i) the market has failed many local people in housing need;

ii) the new company offers an effective option for tackling the housing shortage through developing a significant number of new homes, and in particular homes that are more affordable, .

14. OPTIONS CONSIDERED AND REJECTED

14.1 A Do Nothing option was considered and rejected because it would not address the severe shortage of new homes, and in particular more affordable homes.

14.2 An option of continuing solely with the current HRA funded new build housing programme was considered and rejected because it would not add significantly to the number of new homes required to meet the housing shortage.

Contact Officer(s):

Keith Robbins - Business Partner Housing and Health
Mark Adams - Senior Regeneration Manager, Housing Development & Regeneration

Background papers: None