

## Central Bedfordshire Council

### Corporate Resources Overview & Scrutiny Committee

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## Making the most of the Council's Assets: Establishing a Council owned Development Company

Report of: Cllr Eugene Ghent, ([eugene.ghent@centralbedfordshire.gov.uk](mailto:eugene.ghent@centralbedfordshire.gov.uk))

Responsible Director(s): Marcel Coiffait, Director of Community Services  
([marcel.coiffait@centralbedfordshire.gov.uk](mailto:marcel.coiffait@centralbedfordshire.gov.uk))

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### Purpose of this report

1. Central Bedfordshire Council has, in recent years, been successful in delivering capital receipts from sales of surplus assets, creating additional value through work to gain planning permissions and develop site infrastructure. The next step in creating additional value is to build out sites either for sale at increased values or for retention as revenue generating assets. This would also provide the opportunity to address a number of place-making and policy ambitions and help to fill gaps in market supply. This report sets out the options for creating the capacity to deliver a step-change in making the best use of land assets through:
  - establishing a wholly-owned company to deliver housing and commercial development on sites currently owned by the council;
  - Creating additional capacity through procuring a specialist partner to develop commercial sites;
  - Procuring a construction delivery partner to increase the pace and capacity of delivery of new built assets.

### RECOMMENDATIONS

The Scrutiny Committee is asked to:

1. Support the establishment of a wholly-owned housing development company  
Consider the options for creating increased capacity to develop the Council's commercial land
2. Support the procurement of a construction delivery partner to deliver a pipeline of construction works.
- 3.

### Background

2. Historically, in the case of Council owned land, traditional models have seen disposal of land to a developer in return for a capital receipt. Whilst this model draws from the finance and development expertise of the private sector, it typically results in the transfer of land away from the Council.
3. Following this model, the past two years Central Bedfordshire Council has significantly exceeded its capital receipts targets and established a robust pipeline of opportunities to continue to deliver capital income.
4. However, selling undeveloped land sees the Council giving up the opportunity of realising even greater value in its land and having less influence on the nature/tenure of housing or industry being developed over the medium to long term. As an alternative, by investing in the development of its own land assets and retaining ownership of some or all of the resultant buildings the council creates assets with an increased value alongside the ability to produce an ongoing revenue income.
5. In addition, direct involvement in development presents significant opportunities for the Council to have a greater role in determining the pace and nature of delivery, the product, and to have a greater share in the financial returns.

### **Housing delivery**

6. As an area that is seeing significant growth, the Council is taking a proactive approach by considering all options to increase and influence the supply of new homes of all tenures in a sustainable way alongside improving the fabric and public realm of Central Bedfordshire.
7. Nevertheless, there remains a shortfall between the demand and supply of new affordable homes in Central Bedfordshire, both in absolute term as viability issues result in below policy delivery and in specific tenures. The Council already has a HRA programme of building and acquiring new homes and works in partnership with private developers and Registered Providers (RPs); while these initiatives address some of the need there is still a shortfall, especially in the provision of intermediate affordable rental housing, older people's housing, specialist accessible housing and housing for market rent.
8. Using its own land assets to deliver additional housing could assist in satisfying the housing demand in Central Bedfordshire without losing the long-term value of owning assets. Whilst this approach will not provide a 'silver bullet' to address all of the housing demand issues our residents face, it would add a significant set of tools currently unavailable to the Council and could if successful, improve flexibility of approach and increase the speed and diversity of delivery mechanisms.

9. This does not detract from, or replace, the need to deliver housing either through the HRA (including the potential through increased borrowing capacity) or from working with the market.

### **Commercial development**

10. There are a number of council owned sites which have the potential for commercial development land which could help benefit or improve the area by providing opportunities for sustainable businesses and high-quality employment.
11. The scale of the opportunity these sites present are beyond the current capacity of the Council to deliver, even in terms of land sales. This is compounded if the potential to increase retain asset value through development or the generation of revenue income is to be realised.

### **A council owned company**

12. The Localism Act 2011, through the general power of competence introduced a power for local authorities to do anything that individuals generally, of full legal capacity, may do, subject to certain, specified, limitations and restrictions. Across the country around 110 local authorities have set up or in the process of setting up housing or property development companies.
13. A wholly-owned council Company offers the opportunity to the council to develop its land holdings and utilise its capital borrowing facilities to develop property to generate an annual revenue return to the council and help meet demand for housing where gaps currently exist in market delivery.
14. The company would be a private company limited by shares, wholly owned by the Council with the purpose of generating revenue through housing rents and sales, focussing on key gaps in market delivery for affordable housing. Developing housing as its key product will also assist in creating and accelerating housing supply.
15. A company structure is needed to retain housing stock outside of the constraints of the HRA, which has limited financial capacity to deliver new homes and is primarily focused on the delivery of social rented property.
16. The company could also develop commercial property where appropriate although a company structure is not a requirement to deliver commercial development where it can be demonstrated that this has benefits beyond financial returns, for example by creating sustainable and high-quality employment.

17. The company would be commercially focused, with the objective of developing properties for rent but also as appropriate, for sale. The ability to build property for private rent, private sale, affordable rent, shared ownership etc. reflects the role that the Company could play in delivering housing supply within the Council's boundaries and maximising the income to the Council as its sole shareholder.
18. In order to comply with both State Aid rules and Her Majesty's Revenue & Customs (HMRC) requirements in relation to capitalisation the Council would fund the company through a mix of both equity and loan finance. In the initial business plan it is proposed that the Council would transfer sites, as and when required, to the WOCC and take a mix of equity in the company through the acquisition of shares and capital to the full value of the land consideration, thereby meeting the requirements of section 123 of the Local Government Act 1972.
19. In addition, the Council would lend money to the company at a commercial lending rate, in order to provide the company with the finance required to plan, design, and construct the new properties (see Business Plan Appendix 1).
20. The company could also purchase sites, land, or property, if the business case generates a good financial return and is in line with the company's memorandum and articles.
21. The company may set up joint ventures with trusted partners for the development of some larger sites that require specialist land assembly skills and larger sums of cash to assist with delivering the development if this is deemed to be appropriate and support the business case.
22. The company would contract with construction specialists and construction companies for the development of sites.
23. As the Company is expected to deliver levels of affordable housing beyond planning policy requirements on some sites, it would fall within the EU procurement regime as it would be considered a body governed by public law. This would not be the case for a purely commercial company (subject to governance arrangements).
24. The developments will be planning policy compliant (subject to viability)
25. The return to its shareholder (the Council) would be in the form of –
  - Dividends from profit
  - Income from debt financing

- In the medium to long term, enhanced capital value growth of the asset

### **Construction Delivery**

26. There is an increasing demand for the delivery of capital building schemes from across the council, ranging from new care homes to schools; alongside demand is a desire to operate at both at pace and cost effectively. Developing out sites as the next step in multiplying returns will add to this demand
27. A potential solution is to procure a construction delivery partner for a portfolio of work (which need not be specified in detail) in order to bring capacity, deliver economies of scale and to reduce the time lag of multiple procurements.
28. This has the potential to bring sites forward at greater pace and in addition delivery of construction within the council (rather than through a development company) is potentially more tax efficient and therefore more cost effective. Assets could still be transferred to a wholly-owned company or the HRA at market value at an appropriate point if so desired.

### **Options Considered**

#### **Continue current practice**

29. The first option would be to continue with current practice; disposing of surplus assets for the best consideration to the market. This is a low risk option and is now well established. There remains an on-going need to raise capital income and as such an on-going programme of disposals is planned however some sites could generate better net value to the Council if they are either developed and sold or developed and retained as revenue generating assets.
30. The scale of forthcoming commercial property sites is too large for the Assets team to resource and gain best value. Additional capacity in the team would need to be recruited if current practice was to be maintained.
31. The Council's capital construction team is currently recruiting to achieve full establishment however the desire from services to deliver more work directly by the council is increasing. Continuing current practice of individual procurements and projects each supported by in-house staff would mean pace for some projects would be slowed as resources were allocated to priority projects.

### **Housing Delivery Options**

32. There are four potential routes to developing housing and retaining ownership some of the stock as rental units:

**33. *Development through the HRA:***

- The HRA would retain any rental income from new properties developed.
- Finance to deliver the regeneration would have to be found from within the HRA or other Council capital resources e.g. capital receipts or s.106 contributions.
- This presents the least risk, as it is what we do now, delivering a limited number of homes a year.

34. There is currently an opportunity to bid for an increase in the HRA borrowing cap which would, if successful, increase the number of homes that could be delivered. This means that some of the council's land could be transferred to the HRA to deliver this programme however this would only account for a proportion of the potential sites that CBC could develop.

**35. *Development through the Council's General Fund***

- There are significant legal barriers to retaining stock in the General Fund and of the finance vehicles set up by other councils to undertake housing development none have chosen to do it by this route.

**36. *Development through a Council Owned Company***

- A company approach offers the opportunity to develop different housing types from market sale to affordable rent.
- The company would be wholly owned by the Council. It could therefore control levels of borrowing and also the use of any profits.
- The use of a company could shield the risk of investment being eroded via right-to-buy and rent capping.
- Assets could be developed in the General Fund and then transferred to the ownership of the company, or stock could be developed by the company directly.
- A company offers greater flexibility in many areas, for example, sources of borrowing could include PWLB, General Fund reserves or commercial loans.
- Decision making can be faster and hence the pace of delivery improved.
- A council company could be structured to deliver affordable housing funded by S106 contributions

37. A council company is widely seen as the simplest way to unlock the new powers that result from the Localism Act.

**38. *Development Through A Joint Venture (JV)***

- A Joint Venture would be a company set up between the Council and a private sector development partner

- A private sector partner would bring additional capacity and expertise, usually alongside capital investment funding
- A JV would mean a 50:50 share of profits and equity and risk
- The retention of housing stock within a JV is unusual, they are used largely for developing assets then disposal; it is likely that an additional company structure would need to be established to retain stock
- Whilst it brings less risk and can offer the same outcomes as council owned company if carefully procured, a JV can be less flexible than a wholly owned company as understanding what is required needs to be set out during the initial procurement of a partner.
- A JV would be 50% owned by the council and therefore control would be less certain than a wholly owned company and could lead to conflicting priorities with a partner.

### **Commercial Development Options**

39. A council owned company or a JV could be used to deliver commercial property in the same way as they can deliver housing and these have similar advantages of flexibility and agility of decision making in the case of the former and access to expertise and funding in the latter. There is not the same requirement to operate outside of the General Fund however as long as certain outcome conditions are met.
40. An alternative option would be to procure a development partner directly (i.e. a JV would not be required) as this could be a contract operated from within the General Fund. This would bring the advantages of access to external expertise and capacity at a clearly defined cost.
41. Developing a commercial estate through a Company structure would mean profits would be subject to corporation tax (currently at a rate of 19%) whereas operating within the council would avoid this, however the income net income from lending capital at commercial rates would not be realised.

### **Governance of a wholly owned company**

42. The Council has taken advice from LGSS and Trowers & Hamblins who have advised that a company limited by shares (CLS) is the appropriate form of vehicle for the Housing Company for a number of reasons, including:
- a CLS is the most common corporate vehicle used in England for profit distributing bodies and is a tried and tested model;
  - the ability for the Council to invest in the company by way of share equity as well as loan debt;
  - The general power of competence, being used for a commercial purpose does not allow for local authorities to participate directly in a

limited liability partnership, which would be the other most obvious corporate form for a body established with a view to profit.

43. The company will be set up in accordance with the Companies Act 2006, including the appointment to the Board of the company. The Memorandum and Articles of Association and any other relevant document for the setting up of such a company will be in a form approved by the Monitoring Officer.
44. The Council will hold 100% of the shares in the Company and as such will have full ownership. This has the advantage of allowing the Council to retain ultimate control of the Company and therefore the allocations, selection of properties and the rents.
45. Appropriate governance arrangements will need to be put in place so that the Council, as the sole shareholder of the company, can set and oversee the strategic direction of the Company whilst allowing the directors of the Company discretion to carry out the operational management effectively, efficiently and with clear targets and milestones. This will require a clear decision-making framework to ensure the Council as Shareholder makes the appropriate decisions reserved for them and gives sufficient authority to the Company Directors to make decisions in relation to the day to day activities of the Company.
46. Governance arrangements must ensure accountability whilst not hindering operational activity.
47. It is recommended that the following governance structure is implemented:
  - A Company Board consisting of two Elected Members or Senior Council Officers, two independent Non-Executive Directors, who can bring commercial and financial experience to the board, and the Managing Director of the Company. The board will provide the strategic direction and oversight of the Company and will exercise the Council's rights as shareholder of the Company.
  - The board will be responsible for setting and reporting performance and the Company's annual plan to the Council's Executive.
  - Directors of the company will be subject to the provisions of the Companies Act 2006 regarding duties and obligations of Directors. Any actions against the company will stay with the company and there would be no recourse to the council or individual directors, save in certain defined cases for example, fraudulent or wrongful trading. In addition, the Directors will be indemnified by the Company for personal liability except in the cases of unlawful actions or fraudulent or wrongful trading).
  - The establishment of a Shareholder's Agreement (between the shareholders and the Company) will set out the parameters the Company must operate within and ultimately it provides the Council with complete control over the company.
  - As the Council is the sole shareholder of the Company this avoids potential conflict of interest between board Directors roles as an



elected Member or officer of the of the Council and their duty to the Company.

- Notwithstanding the point above it is recommended that the Council's Chief Finance Officer and Monitoring Officer are not appointed to the Company to ensure a clear separation of their roles in their advice to the Council.
- In addition to the directors of the business, the Housing Company will also need to be appropriately staffed. It is anticipated that many of the services will be contracted out with housing management, maintenance and accounting services provided by Council staff (and re-charged to the company). It is important to absolutely demonstrate that all costs of utilising Council staff are recovered and that there is no actual or hidden subsidy so as to avoid any challenge that the Council is providing state aid to the company.

### **Documentation required to establish the Company**

48. The following documentation will be required to complete the establishment of the Housing Company and associated governance arrangements:

- Memorandum of Association and Articles – this will be the governing document for the Company
- Shareholder Agreement – will be required to regulate, amongst other matters, how Company is to be governed. This will be a key document as it will capture how the Council/Shareholders will exercise its control over the Company.
- Loan Agreements – these set out the details of the funding arrangements between the Council and the Company.

49. In addition, the Company will be governed via a series of operational documents including:

- A Business Plan – the business plan will need to be developed to cover a rolling 5-year period of investment activity and will outline the company's planned operations. The Business Plan will be reviewed and agreed annually and covers the following: -
  - Company objectives (as established in the Shareholder Agreement)
  - Governance arrangements
  - Operational plans
  - Financial model and assumptions
  - Rents, sales and development assumptions
  - Fees, on costs and tax
  - Funding profile and sensitivity analysis
- Operational Policies including: -
  - Rent setting

- Lettings policy
- Rent arrears and debt recovery Other general policies e.g. Health and Safety, data protection

## **Site Selection**

50. Each potential development site would be considered in line with current methodology, as set out in the Council's constitution and financial regulations as it became surplus to requirements. Disposal options would be compared and decided on via a report to Executive (for disposals over £ 500k) or through delegated powers for sites below this value. Transfer to a Company would need to be at market value and be considered alongside other options such as direct sale or transfer to the HRA for example.
51. Initially it is expected that a number of sites would be identified together in order to provide the Company with sufficient critical mass to become effective quickly. A list of potential sites is being explored and will be brought to the Executive for consideration should the establishment of a Company be agreed. These sites will form the basis of the detailed business case which would also be put before Executive.

## **Council Priorities**

52. Making the most effective use of the Council's Assets supports three of the Council's key priorities –
- a. A more efficient and responsive council: generating improved capital receipts or revenue income.
  - b. Enhance Central Bedfordshire: using the Council's assets to deliver much needed housing and sustainable businesses.
  - c. Creating stronger communities: providing specialist accommodation in order to create suitable housing in sustainable developments supports diverse communities.

## **Corporate Implications**

### **Legal Implications**

53. Legal advice on the establishment a wholly owned company and the implications for transfer of assets has been sought from LGSS and Trowers and Hamlin. A copy of this advice is included at Appendix 1.

### ***Powers to form the Company:***

54. The Council can rely upon the general power of competence within the Localism Act 2011 to form the Company for operating a business to let

homes to rent or to provide homes for sale either on market or sub market terms.

55. Section 1 of the Localism Act 2011 provides local authorities with the power to do anything an individual may do, subject to a number of limitations. This is referred to as the general power of competence. A local authority may exercise the "general power of competence" for its own purpose, for a commercial purpose and/or for the benefit of others. In exercising this power, a local authority is still subject to its general duties (such as the fiduciary duties it owes to its rate and local tax payers) and to the public law requirements to exercise its powers for a proper purpose.
56. In the exercise of its powers under the Localism Act for a commercial purpose, the Council is obliged under the Localism Act to do so via a company.

### ***Powers to fund the Company***

57. The Housing Company will need significant funding to acquire land and develop properties. Therefore, as well as the Council having the powers to form the Company it must also be able to provide it with the necessary loan and equity funding.
58. The Council has the power to borrow under the Local Government Act 2003 for the purposes of the prudent management of their financial affairs, or in connection with any of their functions. The borrowing must be affordable, prudent and sustainable and comply with the Prudential Code.
59. As outlined, in the Finance section below the Council would need to borrow monies and in turn support the Company through the provision of loans and subscription to share capital. Section 24 of the Local Government Act 1988 (the 1988 Act) specifically allows the Council to provide financial assistance in connection with the provision of privately let accommodation.
60. If the Council exercises its powers under this section, then under Section 25 of the 1988 Act it must also obtain the consent of the Secretary of State to do so. If this consent is not obtained, then any financial assistance given will be void. The Secretary of State has set out pre-approved consents in the "General Consents 2010" (July 2011) and the "General Consents 2014" (April 2014). The General Consents 2010 contains Consent C. and the Council can provide financial assistance to the Company under this provision.
61. Any housing made available for sale by the Housing Company would not be covered by the 1988 Act, however the Council can rely upon the general power of competence under the Localism Act 2011 to fund the Company for the purpose of the company operating a business to provide homes for market sale.

### **Financial and Risk Implications**

62. An indicative financial business case for a wholly owned company based on delivering 400 homes is included at Appendix 2. A detailed business case setting out the financial implications and assumptions of the Company development will be prepared if there is agreement in principle to establish one; the scope of this detailed business case is dependent on whether commercial development is included within the proposed remit of the Company. The detailed business case will be brought back for the Executive to consider before a Company is activated.
63. Establishing and operating a Company is predicated on the Company being fully financed by the Council's General Fund. This is because the Council is able to access funding at very competitive rates from various sources including the Public Works Loan Board (PWLB). The Council can then on-lend funding to the Company.
64. The funding provided from the Council to the Company will be in two parts. Firstly, the larger part of the funding will be as a loan on which the Company will pay interest to the Council. The second part of the funding will be in the form of equity (in return for shares in the Housing Company).
65. If the Council were to invest 100% of money as a loan to the Housing Company, then HMRC may challenge this as a non-commercial arrangement and as way to make excessive interest payments and avoiding an appropriate tax liability.

### ***Taxation***

66. The tax and VAT implications in relation to the outline proposals have been assessed by Trowers and Hamelin, however further specialist advice will be sought as part of the detailed business case.
- **Stamp Duty Land Tax (SDLT)**  
As the council is a local authority, group relief should be available on the purchase of land. This means that no SDLT should be chargeable whether land was sold or gifted. Some due diligence should be undertaken to ensure that the conditions for SDLT group relief apply.
  - **Corporation tax**  
Corporation tax would (at an average of 19%) would be payable on revenue surpluses and on the sale of assets by the Company. Assets constructed by the Council and sold are not liable to Corporation Tax. Transfer of Assets creates a potentially complex position depending on the stage of development and any uplift in value from the 'base' value at point of transfer (this is different from the market value). The particular tax implications for each land disposal should form part of the considerations when deciding whether to transfer these into the Company.
  - **VAT**  
The new Company will not be able to recover all the VAT that it incurs on purchases of goods and services as its sources of income; new property sales and rental are either zero rated or

exempt from VAT. The new company will be able to register for VAT and it is acknowledged that this should be done as soon as possible to reduce any risk of VAT loss on the costs on setting up the new company. The type of construction contracts the Company deploys will also impact VAT exposure.

### **Financial Impact on the General Fund**

67. The General Fund will receive three different types of return from the Company:

- ***Interest on loans***

The Council will finance the Housing Company by taking out loans and on -ending to the Company. Loans made by the Council to the Company will require an interest rate which will be at a margin above the rate the Council has borrowed. An appropriate rate will be determined by the Chief Finance Officer taking into account the need to ensure that it is a commercial rate (thus ensuring State Aid provisions are not triggered).

- ***Repayment of loan principal***

The ability to flex the disposal of some assets through market sales will determine the rate of repayment of the loan principal depending on the shareholder's intentions, however the repayment of the principal loan will be completed within 35 years.

- ***Dividends***

The Company's profits, net of tax, will be available for distribution to the Shareholders (the Council) and will represent revenue income to the Council.

68. The acquisition of equity by a Council and the provision of loans to a third party are both defined as capital expenditures by legislation. To the extent that such expenditure is funded by borrowing there is a requirement to make a prudent provision for the repayment of such debt. In these circumstances the Council is expecting the repayment of the loan debt element in full and therefore there is no requirement to make a provision for repayment of the loan in the Council's MRP assumptions. In relation to any equity element there is a requirement to make prudent provision for the repayment of the debt, limited to a maximum period of 20 years.

69. In addition to the returns to the General Fund as set out above the Council will benefit from additional income through Council Tax, and in the case of commercial property NNDR, and from New Homes bonus, as well as the potential to generate income from the provision of services, e.g. housing management, financial services, property maintenance, subject to capacity existing within these services.

## **Risk**

70. In relation to establishing a development Company there are a number of key risks which need to be considered. These include:

- Whilst the proposal is for a wholly owned company over which the Council would have ultimate control as sole shareholder, this is a new operating model for Central Bedfordshire Council and brings with it relatively complex new arrangements. Of particular importance are the control mechanisms for the Company; the Articles of Association and the Shareholders Agreement as these will need to be sufficiently robust to deal with any future circumstance where the interests of the Council need to be protected.
- The potential for changes in legislation impacting the ability to operate a wholly owned company poses a risk to these proposals. The government has expressed concern over the levels of indebtedness of local authorities where borrowing has been used invest in property to generate financial returns. By acting in a space that can be considered legitimate council activity; the provision of housing and commercial property that brings benefits to the local place minimises this risk but does not remove it.
- There is a risk that the Company will fail to deliver sufficient returns to cover its liabilities. The level of risk is dependant on many drivers, some of which are outside of the Council or the Company's control such as a downturn in property values or government intervention. In mitigation the proposal is to develop physical assets which in general appreciate in value and which can be sold to improve liquidity in a relatively short time.
- It is possible that the Company will fail to attract staff with sufficient commercial skills to manage the Company. This could be mitigated by partnering with a development or delivery company to build out the assets. The Council already has the skill-sets required to manage housing stock effectively and if stock is retained it is envisaged that existing council services will be used through service level agreements to undertake a range of functions for the Company. 5.6

## **State Aid Compliance**

71. If the Council is acting in a way that a private lender and/or investor would not act in similar circumstances in a market economy, for example by providing a loan on uncommercial terms and at a uncommercial interest rate, and/or was making an equity investment on the terms and for the return which a private investor would not do, then such activity could constitute unlawful State Aid within the meaning of Article 107 of the Treaty on Function of European Union.

72. As such, when the Council establishes the detailed loan arrangements with the Company it will need to ensure that an analysis of the relevant risk in relation to the loan is undertaken and also confirm that the interest rate applied is consistent with that which a private lender would require in the same circumstances and that the non-financial element of the loan

complies with the terms and conditions which a private lender is likely to require, so not to constitute unlawful state aid.

73. State Aid will need to be continually kept under review to ensure that the support from the Council is able to continue to be provided throughout the loan period.
74. It is also important that any services provided by the Council to the Company are provided at "arm's length" commercial terms, as uncommercial terms could also constitute unlawful State Aid,

### **Equalities Implications**

75. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
76. These proposals include the potential to increase the supply of specialist accommodation such as accessible homes which in turn would have a positive impact on the equality of opportunity.

### **Procurement Implications**

77. In respect of the proposal to establish a wholly owned company, the Company will be a body required to follow the Public Contracts Regulations 2015 (PCR). However, as a wholly owned subsidiary of the Council, the Housing Company will be able to take advantage of the "in house" exemption from the PCR and as such, any contracts let between the Council and the Company (e.g. in relation to housing management services) would not be subject to the EU procurement regime.
78. In respect of delivering the proposed procurement of delivery partners, the Council will act in accordance with the EU Procurement Directives and ensure that all procurement activity is conducted in compliance with the Public Contracts Regulations 2015. The internal procurement team will be fully engaged with this process, providing support and overseeing the procurement and until any contract award. A full audit trail will be in place covering the entire exercise which will be kept as a full record of the process for the required period.

### **Conclusion and next Steps**

79. Should the recommendations in this report be agreed the following work will be undertaken:
  - A detailed business case for a wholly owned Company based on specific sites will be completed and reported to the Executive for consideration along with proposed articles of association and a list of potential sites for transfer.

- Based on the detailed business case the requirement for borrowing will be established and proposals to make changes to the Capital programme to accommodate this put forward.
- Any proposed constitutional amendments required to enable the governance of a wholly owned company will be drawn up for consideration
- Detailed Tax advice will be sought
- A specification for the procurement of a commercial property development partner will be drawn up (if required) and a tender process engaged in.
- A specification for the procurement of a construction delivery partner will be drawn up including an indicative pipeline of works

## **Appendices**

**Appendix A:** Legal Advice

**Appendix B:** Indicative Financial Business Case

Report author:

Marcel Coiffait, Director of Community Services

[marcel.coiffait@centralbedfordshire.gov.uk](mailto:marcel.coiffait@centralbedfordshire.gov.uk)