



## Policy and Resources Committee

**Date:** Wednesday, 24 March 2021

**Time:** 6.00 p.m.

**Venue:** Virtual

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### AGENDA

1. WELCOME AND INTRODUCTION
2. APOLOGIES
3. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members are asked to consider whether they have any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

4. PUBLIC AND MEMBER QUESTIONS

- 4a. Public Questions

Notice of question to be given in writing or by email by 12 noon, 19 March, 2021 to the Council's Monitoring Officer (committeeservices@wirral.gov.uk) and to be dealt with in accordance with Standing Order 10.

- 4b. Statements and Petitions

Notice of representations to be given in writing or by email by 12 noon, 19 March, 2021 to the Council's Monitoring Officer (committeeservices@wirral.gov.uk) and to be dealt with in accordance with Standing Order 11.1.

Petitions may be presented to the Committee. The person presenting the petition will be allowed to address the meeting briefly (not exceeding one minute) to outline the aims of the

petition. The Chair will refer the matter to another appropriate body of the Council within whose terms of reference it falls without discussion, unless a relevant item appears elsewhere on the Agenda. Please give notice of petitions to [committeeservices@wirral.gov.uk](mailto:committeeservices@wirral.gov.uk) in advance of the meeting.

#### **4c. Questions by Members**

Questions by Members to dealt with in accordance with Standing Orders 12.3 to 12.8.

### **SECTION A - KEY AND OTHER DECISIONS**

#### **5. ESENTIAL CIC - LETTER OF COMFORT (Pages 1 - 8)**

### **SECTION B - COMMITTEE REFERRALS**

#### **6. PROPOSAL TO ACQUIRE UNITS FOR AFFORDABLE HOUSING USE (Pages 9 - 24)**

#### **7. EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

The following item contains exempt information.

RECOMMENDATION: That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 3 of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.

#### **8. PROPOSAL TO ACQUIRE UNITS FOR AFFORDABLE HOUSING USE EXEMPT APPENDIX (Pages 25 - 26)**

Exempt Appendix to Agenda item 6



## **POLICY AND RESOURCES COMMITTEE** **Wednesday 24 March 2021**

<b>REPORT TITLE:</b>	<b>EDSENTIAL CIC - LETTER OF COMFORT</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF LAW AND GOVERNANCE</b>

### **REPORT SUMMARY**

Edsential CIC, a company wholly owned equally by the Council and Cheshire West and Chester Council, has experienced significant trading and financial difficulties as a consequence of the COVID 19 Pandemic. It has been in negotiation with officers of both the Council and Cheshire West and Chester Council with a view to obtaining additional financial support. external auditors require re-assurance that the company is a going concern.

The proposals within this report affect all Wards

The proposals within this report are a Key Decision.

### **RECOMMENDATIONS**

- (1) That the Director of Law and Governance be authorised, in consultation with the Director of Resources, to:
  - (a) provide a letter of comfort to Edsential that financial support will be provided to the company over the forthcoming period, in the form of Covid related funding support and/or a commercial loan, to be offered in conjunction with Cheshire West & Chester Council and subject to approval by this Committee; and
  - (b) consider such a request for assistance from Edsential to this Council, which shall only be granted subject to the approval of this Committee and which consideration should include assessment of the request (due diligence), revised business plan(s) and any conditions considered appropriate to be applied at the point of offer.
- (2) That the Director of Law and Governance be authorised, in consultation with the Director of Children's Services, to appoint a replacement officer as a director of Edsential.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATIONS**

- 1.1 Edsential has been provided with a working capital facility to manage its cashflow arrangements, allowing the company to function effectively. It has encountered financial difficulties arising from the Covid-19. Although various government support measures have been utilised by the company, it is likely that the company will need to negotiate additional facilities beyond the cashflow agreement to cover exceptional costs or loss of income arising from Covid-19.
- 1.2 The financial statements for Edsential for the last trading year have been prepared and are due to be presented at its board meeting of 25<sup>th</sup> March 2021 as complete by their auditors, Crowe LLP, prior to an extended filing deadline of 31<sup>st</sup> March. In order for the auditors to sign off the company as a “going concern”, however, it needs to be demonstrated that there is reasonable expectation that the company has adequate resources to continue to be operational.
- 1.3 To this end, the shareholders, Wirral Council and Cheshire West & Chester Council, have been asked to provide a letter of comfort that they will provide a means to adequate funding to give assurance that the company will remain viable and have a realistic mechanism for recovering the recent and projected losses.
- 1.4 The core, underlying business (prior to Covid-19) has proven to be profitable and marginally cash generative. Subject to adequate revised business plans, consideration of the company’s resources and long term consequences of any short term support provided and the assessment of need at the close of lockdown and re-opening of the Edsential’s activities, it is considered in the Council’s interest as a shareholder, together with Cheshire West & Chester Council, to provide such funding and the letter of comfort in advance of that detailed application.
- 1.5 The Council’s current appointee to the board of directors of Edsential is Simone White, whose role within the Council has changed upon her promotion to Director of Childrens Services. It is considered, therefore, that her role is best taken up by another officer related to the delivery of education and youth provision and create a separation to respect the conflict of interest between company and Council.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 A decision could be made to not provide a letter of comfort. In that event alternative financing arrangements could be sought by Edsential, albeit such support may be difficult to establish. Not providing a letter of comfort would mean that Edsential’s auditors would be unable to sign off the company’s

accounts. This could make it unlikely that the company could continue to function as a going concern.

- 2.2 Mrs White could remain as appointee director. It was considered that this role best suited to an assistant director or head of service, which is a role Mrs White no longer holds, and would lead to extra capacity being asked of Mrs White whilst fulfilling her new role.

### **3.0 BACKGROUND INFORMATION**

#### Company and Requested Letter of Comfort

- 3.1 Edsential is a Community Interest Company. It is equally and jointly owned the Council and Cheshire West and Chester Council. Its mission is, "Improving outcomes for children and young people." It was formed in 2015 and, save for the times when it was prevented from doing so during the COVID 19 pandemic, delivered a wide range of education and support functions to schools, academies, parents, and other education establishments. It has generated approximately £18.4M per annum from schools in Wirral and Cheshire West & Chester since its inception.
- 3.2 Approximately £22m of income generating services, focused mainly on catering, cleaning, residential activity, music and school improvement were transferred from both Councils to the newly formed company along with the relevant staffing, contracts and associated expenditure.
- 3.3 Edsential traded profitably for the first years of operation and was projected to generate a further operating surplus of approximately £100,000 for the year to March 2021. Customarily, surpluses have been deployed to reduce start up loan funding received from the shareholder councils and provided grants to schools in both Council areas for school improvement activities.
- 3.4 Over and above COVID pandemic financial pressures, it is noted the company has identified financial pressures caused by paying the local Living Wage as such costs tend to rise more quickly than the company's income from schools. The company has therefore indicated the need to generate new and growing savings in the future as a means to bridge this gap.
- 3.5 As part of the arrangements for establishing the company, both Councils agreed to provide Edsential with a Working Capital Loan facility. The facility is required as the company is reliant upon income streams for services provided, to finance its expenditure. The way the Company operates means that costs of provision are incurred before income is received leading to a temporary cashflow timing issue. The company makes use of the facility as and when it needs to draw down cash to make payments and repaying as cash for services supplied is received.

- 3.6 On 16<sup>th</sup> December 2020 this Committee agreed to approve the renewal of an interest bearing working capital cashflow agreement of up to £2 million with Edsential for a 5 year term.
- 3.7 The Covid-19 pandemic has impacted upon Edsential's business plans and planned income streams. Although various governmental support has been utilised by the company the company will need to negotiate additional facilities beyond the cashflow agreement to cover exceptional costs or loss of income arising from Covid-19.
- 3.8 Discussions are taking place between the company and officers of the Council and of Cheshire West and Chester Council about the precise nature of the additional financial facilities that should be offered to Edsential. Finalised proposals will be reported to a subsequent meeting of this Committee. In the meantime, the company's auditors are requiring a letter of comfort in order to enable them to be in a position to sign off the company's accounts and for them and the company to have confidence that the business can continue as a going concern.
- 3.9 Covid related grant funding along with commercial loan funding from each of its shareholder councils should not only continue enable it to continue to trade but will also enable it to exploit gaps in its various markets caused by other operators withdrawing or ceasing to trade.
- 3.10 This is particularly true in the area of providing outdoor education residential facilities through a restructured offer which would include a rationalisation of the facilities deployed. The company has already indicated that it will not re-open the Outdoor Education Centre at Oaklands, Nr Llanwrst, in North Wales leased from the Council (and has served notice to terminate the lease). It is planning to close another similarly uneconomic facility owned by Cheshire West and Chester Council.
- 3.11 The process of reviewing the Draft Annual Business Plan for 2020 for shareholder approval was interrupted by the COVID crisis and the company is preparing a revised version for 2021 for presentation to shareholders which will be presented to this Committee for approval in the usual way at the first available meeting. It is expected that this will detail not only the financial support sought from shareholder councils, but also other financial savings measures being proposed by the company, including a partial pay freeze, changes to the pension provision for new employees, the restructuring of the company's residential offer, the reduction in furlough support and the closure of some residential centres. The latter is perceived to have limited financial impact.
- 3.12 It is anticipated that a mixture of Covid related grant funding and a commercial lending by the two councils. Should enable the company to cope well with the impact of the Covid 19 pandemic, It is anticipated that

the new business plan for the company should enable to the company to recover well over the forthcoming years but that there is a need for a short term injection of cash to tide the company over, details of which will be considered at a later meeting. Without the measures set out in the recommendations the Company has indicated that it will be unable to continue to trade.

#### Company Director

- 3.13 The Council's current appointee to the board of directors of Edsential is Simone White, whose role within the Council has changed upon her promotion to Director of Children's Services. It was considered that this role best suited to an assistant director or head of service associated with children's, education or youth provision, which is a role Mrs White no longer holds, and which would now would lead to extra capacity being asked of Mrs White whilst fulfilling her role as Director at the Council. The previous company director appointed was Mr David Armstrong.
- 3.14 The Council's new Assistant Director for Education has not yet started their employment with the Council. Whilst this person may make best sense to be the Council's appointee, and the existing Cheshire West and Chester Council appointee to the Edsential board is likewise that Council's Assistant Director for Education, this matter has not been discussed with the individual concerned and further options may come to light as a result of that or other discussions. Given that timing, therefore, it is suggested that delegated authority be granted to make the appointment following further discussion.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 At this stage, there are no direct financial implications arising from the recommendations made in this report. The financial implications that flow from providing Covid funding support and any commercial loan will be identified once the need and application for funding is known and assessed at the end of the period of Covid restrictions upon the business activities of the company.
- 4.2 Any loan element would be on commercial terms for the councils, so as to comply with subsidy provisions, as they are required to charge a market equivalent rate whilst being able to borrow at significantly lower rates.
- 4.3 Any Covid support funding would be in the form of a grant, potentially from Covid relief funding received from central government as held for these and other purposes by the councils, which would enhance the company's cash position without imposing an additional interest liability. The use of grant funding could place a pressure on the Council's revenue budget and the use of Covid monies would be at the cost of alternative use/demand of these monies.
- 4.4 The use of grant money would be a form of subsidy control and would have to be justified having regard to the Subsidy Control Common Principles.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 Edsential is a local authority controlled company, established under the Local Government and Housing Act 1989 and which operates under the provisions of that and related legislation, including the Local Authorities Companies Order 1995 and the Local Government Act 2003 and Trading Order 2009 as augmented by the Localism Act 2011.
- 5.2 Edsential is established as a Community Interest Company in which the Council owns half of the issued share capital and Cheshire West and Chester Council holds the other half. Edsential accordingly has limited capacity to distribute dividend income and has additional regulatory requirements to meet. There is a commitment that the company is not established for private gain and any surplus or assets are used principally for the benefit of the community.
- 5.3 Its purposes are education support services and other food services. Its activities relate primarily to school catering and cleaning, support to creative and performing arts, governors, health and wellbeing, music, residential visits and training.
- 5.4 Any further financial facility offered to Edsential needs to be subsidy control compliant so as not to provide an unfair advantage to the company and be compatible with the Council's fiduciary duty to local taxpayers. The detailed considerations relating to subsidy control will depend on the nature of the financial assistance that is recommended to this Committee at a later date.
- 5.5 To the extent that it provides such services which are a function of the Council, it would then fall on the Council to discharge such services in its area if the company was to cease to carry those out.
- 5.6 The services currently being delivered by the company are limited to
- (i) the provision of Health and safety Advice and the maintenance of a register for schools where the council is employer when schools organize trips outside normal school hours; and
  - (ii) the co-ordination of the school governors' statutory support function which involves giving relevant advice and sign posting training activities.

## **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 There are no direct implications to staffing, ICT or Assets.

## **7.0 RELEVANT RISKS**



- 7.1 The Company's ability to operate effectively may be compromised if its external auditors are unable to sign off its annual accounts.
- 7.2 In the event that the company ceases to trade, in addition to the negative impact on schools and school children in the area who may receive inferior services from less socially motivated suppliers, there is a financial risk to the council that:
- its working capital loan may not be repaid in full;
  - services will fall back to the council to be delivered;
  - it will be required to cover redundancy costs and possibly other debts of the company, including an outstanding VAT payment (deferred with HMRC approval) of approximately £900,000.
- 7.3 Such risk would be mitigated by the proposals within this report.

## 8.0 **ENGAGEMENT/CONSULTATION**

- 8.1 Briefings have been provided to Members appointed to the Shareholder Board (sub-committee).
- 8.2 Discussions are taking place between this Council and Cheshire West and Chester Council, between both officers and elected Members, to consider a shared approach.

## 9.0 **EQUALITY IMPLICATIONS**

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision, or activity.
- 9.2 Edsential currently delivers advice, support, and training to its employees and to schools, parents and young people on Safeguarding, E-Safety and the application of technology and actively promotes the safe and effective use of technology.
- 9.3 It also offers Safer Recruitment training from the Safer Recruitment Consortium as well as support and guidance on safeguarding.
- 9.4 Through its work with the Governors Services the company provides training on the safe use of technology, Safer Recruitment, Academisation, Pupil Premium funding and preparing for Ofsted.

## 10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 There are no direct environment and climate implications.

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## APPENDICES

Not applicable.

## BACKGROUND PAPERS

'Edsential – Joint Shareholder Financial Update' February 2021  
*(Not for publication Para 3 (Information relating to the financial or business affairs of any particular person) Sched 12A, Local Government Act 1972)*

Council Meeting	Date
Policy and Resources Committee	21 December 2020



## **POLICY AND RESOURCES COMMITTEE**

**24 MARCH 2021**

<b>REPORT TITLE:</b>	<b>PROPOSAL TO ACQUIRE UNITS FOR AFFORDABLE HOUSING USE</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF LAW AND GOVERNANCE</b>

### **REPORT SUMMARY**

The report provides for consideration the recommendations of the Housing Committee in respect of increasing the number of homes in Wirral's social housing sector, through the use of existing resources available from:

- commuted sums for affordable housing secured through the planning system;
- adaptations Budget passported through the Better Care Fund; and
- potentially also securing funding from Homes England from the Government's Affordable Housing Programme

The full minute of the Housing Committee of 10 March 2021 and the associated report of the Director of Regeneration and Place is attached.

### **RECOMMENDATION/S**

The Housing Committee requests that Policy and Resources Committee approves the following recommendations:

- (1) the Director of Law and Governance, in consultation with the Director of Regeneration and Place, be authorised to negotiate the acquisition of six new social rented housing properties from Lovell Partnerships Ltd and to finalise all necessary associated legal documentation;
- (2) the Director of Regeneration and Place be authorised to enter into negotiations with Lovell Partnerships Ltd to negotiate an enhanced energy efficiency specification which may include the installation of solar photovoltaics for such properties.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATIONS**

- 1.1 This matter is being referred to Policy and Resources Committee because the Housing Committee is recommending that the Director of Law and Governance, in consultation with the Director of Regeneration and Place, be authorised to negotiate the acquisition of six new social rented housing properties from Lovell Partnerships Ltd and to finalise all necessary associated legal documentation. This is associated with a further recommendation that the Director of Regeneration and Place be authorised to enter into negotiations with Lovell Partnerships Ltd to negotiate an enhanced energy efficiency specification which may include the installation of solar photovoltaics for such properties.
- 1.2 In accordance with the Council's Constitution, decisions regarding land and property including major acquisitions concerning any purchase, sale or transfer of a value in excess of £100,000 is reserved to Policy & Resources Committee

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 Other options have been considered as reported within the minutes of the Housing Committee and the appended report.

### **3.0 BACKGROUND INFORMATION**

- 3.1 The former Housing Market Renewal Site in Rock Ferry, Sevenoaks, has seen the development of over 220 new homes already. A planning application for the final phase of this scheme for 43 units is currently being considered. This will complete the masterplan for the area with the Council's developer partner Lovell Partnerships Ltd.
- 3.2 The site being developed presents an ideal opportunity for the Council to pilot the approach of purchasing a small number of new build, specially adapted, social rented units. Officers have explored this option with the developer Lovell Partnerships Ltd and the Council now has the opportunity to purchase six units on the site.
- 3.3 There is an acute shortage of this type of accommodation and it is proposed that these new homes could be used to support people who may need temporary accommodation whilst their longer-term housing options are addressed. In addition, the bungalows proposed could assist the Council in supporting people who are not able to be discharged from hospital as they have specific adaptation needs which cannot currently be addressed elsewhere.
- 3.4 The report is brought to the Policy and Resources Committee as the Committee with specific responsibility for a decision regarding land and property including major acquisitions and disposals.

## **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The financial implications are detailed within the report submitted to Housing Committee on 4 March 2021.
- 4.2 The remaining financial implications for these units can be found in Appendix 1 to the Director of Regeneration and Place's report to Housing Committee, which is exempt from public information under Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 In accordance with the Part 3B of Constitution (Committee Terms of Reference), the Policy and Resources Committee has two main areas of responsibility, which is to provide strategic direction to the operation of the Council, including making decisions on policies and co-ordinating spend not reserved to full Council, and to maintain a strategic overview of outcomes, performance, risk management and budgets.
- 5.2 The Policy & Resources Committee is charged by full Council to provide a co-ordinating role across all other service committees and retain a 'whole-council' view of performance, budget monitoring and risk management. In particular, this includes specific responsibility for a decision regarding land and property including major acquisitions and disposals, which includes reserved decision making concerning any purchase, sale or transfer of a value in excess of, or likely to exceed £100,000. (See Part 3(B) paragraph 1.2 (b) (iv) of the Constitution).
- 5.3 As the matter of business that was the subject of the report to Housing Committee falls under that responsibility reserved to the Policy and Resources Committee, the Housing Committee's resolution is presented as a recommendation.
- 5.4 As the decision in this matter is the subject of a recommendation from another Committee, the Policy and Resources Committee must take into account the resolution of that Committee and give due regard to the guidance and comments made by its members. The Policy and Resources Committee must not, however, consider itself bound by that Committee's recommendations or otherwise fetter its discretion. Its Members must come to their own decision. In doing so, the Committee must satisfy itself that it has been provided with all relevant information or a suitable précis to enable it to comply with its duties and make a lawful decision.
- 5.5 The other legal implications are detailed within the report submitted to Housing Committee on 10 March 2021.

## **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

6.1 The resource implications are detailed within the report submitted to Housing Committee on 10 March 2021.

## **7.0 RELEVANT RISKS**

7.1 The risk implications are detailed within the report submitted to Housing Committee on 10 March 2021.

## **8.0 ENGAGEMENT/CONSULTATION**

8.1 Engagement and Consultation were covered in the original report submitted to the Committee.

## **9.0 OTHER IMPLICATIONS (EQUALITY, ENVIRONMENT & CLIMATE)**

9.1 Other implications arising from the subject matter were considered as set out in the annexed report and meeting minute.

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## **APPENDICES**

Appendix 1 – Minute Extract

Appendix 2 – Proposal to Acquire Units for Affordable Housing Use Report to Housing Committee

## **BACKGROUND PAPERS**

As listed in the Director of Regeneration and Place's original report to Housing Committee appended.

## **MINUTE EXTRACT**

### **HOUSING COMMITTEE**

**10 March 2021**

#### **PROPOSAL TO ACQUIRE UNITS FOR AFFORDABLE HOUSING USE**

Alan Evans, Director of Regeneration and Place, introduced a report on a proposal to acquire six new properties which would be used to enable the Council to use these properties for those in most need. Under this proposal the Council would add to the existing rental income generated from the Council's current housing stock.

It was noted that as another option for consideration, the Council could allocate funding secured through commuted sums and the Better Care Fund to Registered Providers to support the strategic delivery of these six units as new social sector homes for social rent but would still need to provide some level of funding to enable the homes to be let at social rents. However the Registered Provider would retain ownership of the units and so the Council would not receive any rental income from these units to support the long-term financial plan.

Members commented on the report and thanked the Director of Regeneration and Place and the team involved for the work they had done.

**RESOLVED – That Housing Committee requests that Policy and Resources Committee approves the following recommendations:**

- (1) the Director of Law and Governance, in consultation with the Director of Regeneration and Place, be authorised to negotiate the acquisition of six new social rented housing properties from Lovell Partnerships Ltd and to finalise all necessary associated legal documentation;**
- (2) the Director of Regeneration and Place be authorised to enter into negotiations with Lovell Partnerships Ltd to negotiate an enhanced energy efficiency specification which may include the installation of solar photovoltaics for such properties.**

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**HOUSING COMMITTEE****Wednesday, 10 March 2021**

<b>REPORT TITLE:</b>	<b>PROPOSAL TO ACQUIRE UNITS FOR AFFORDABLE HOUSING USE</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF REGENERATION AND PLACE</b>

**REPORT SUMMARY**

The purpose of this report is to brief the Housing Committee on the options available and the benefits to the Council to increasing the number of homes in Wirral's social housing sector, through the use of existing resources available from:

- Commuted sums secured for affordable housing secured through the planning system.
- Adaptations Budget passported through the Better Care Fund (BCF)
- Potentially also securing funding from Homes England from the Government's Affordable Housing Programme

The options detailed in this report will assist the Council in meeting the objectives of the Wirral Plan, specifically focusing on 'good quality housing which meets the needs of residents.

Wirral's Housing Strategy has supported the 2020 Plan, clearly setting out the long-term strategic housing direction for the borough. The strategy has assisted the delivery of new homes through an enabling role with key agencies such as Registered Providers to deliver more social housing sector homes for those in housing need, yielding 687 new affordable homes over the last five years in Wirral.

Building on this, the Council will continue to strategically support appropriate organisations to deliver new energy efficient social housing sector homes, as it adopts the new Wirral Plan 2025, Cool 2 Climate Change Strategy and Local Plan targets. There are also opportunities for the Council itself to progress delivery of some new social housing sector homes, in a way that directly benefits the Council in its obligations to enable people in housing need. This includes enabling homeless households and those with specific adaptation needs to access appropriate homes whilst at the same time supporting the Council through securing a long-term financial benefit in terms of generating income.

This matter affects the Rock Ferry ward.

This is a key decision.

Appendix 1 to this report is exempt from publication under Paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.

## **RECOMMENDATION/S**

That Housing Committee requests that Policy & resources Committee approves the following recommendations:

(1) the Director of Law and Governance in consultation with the Director of Regeneration and Place be authorised to negotiate the acquisition of six new social rented housing properties from Lovell Partnerships Ltd and to finalise all necessary associated legal documentation

(2) Director of Regeneration and Place be authorised to enter into negotiations with Lovell Partnerships Ltd to negotiate an enhanced energy efficiency specification which may include the installation of solar photovoltaics for such properties.

## SUPPORTING INFORMATION

### 1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 This report sets out the current approach in place to strategically support key agencies such as Registered Providers in the delivery of social sector housing to meet Wirral's housing need. It recognises this approach should continue building on a successful track record of delivery but that the Council itself could also contribute to increasing the supply of social rented homes through a small-scale acquisition of new homes. The Council would ensure these homes are allocated to those most in housing need, including more difficult to place homeless households and those where accommodation is not readily available due to their specialist adaptation need.
- 1.2 A Housing Revenue Account (HRA) records expenditure and income for running a Council's own stock, legislated for by the Housing Act 1985 and heavily controlled by government. Wirral Council closed its HRA in 2005 following the sale of the remainder of the Council's housing stock to Magenta (was Wirral Partnership Homes) and is not required to reopen a HRA if its housing stock is less than 200 units. If the Council purchases six additional units on the Sevenoaks site, its total housing stock would be 34 units.
- 1.3 There is currently a sum of £1,098,219 ring-fenced for affordable housing in Wirral, secured through commuted sums for affordable housing through the planning system. This resource could be used to acquire six homes which the Council would allocate and grant tenancies to those in housing need. This would also provide the Council with a rental income which would support its long-term financial plan.
- 1.4 In addition there is the flexibility to utilise the Disabled Facilities Grant Adaptations budget passported through the Better Care Fund (BCF) to part fund the acquisition of four units identified on the Sevenoaks scheme in Rock Ferry which have been specially designed for households with an adaptation need including two level access flats and two wheelchair adapted units, with one of these being for bariatric wheelchair users as there is a critical shortage of this type of property in Wirral. This accommodation has been designed to meet the needs of disabled households where the adaptation will enable them to remain living independently, prevent carer breakdown or delayed transfer of care or enable hospital discharge.
- 1.5 The Homes will produce 20% less CO2 emissions in respect of current building regulations. There is a possibility of reducing CO2 emissions further by installing solar photovoltaic which will cost an additional £4,500 per unit and the Council is currently in discussions with Lovell about this.
- 1.6 The purchase of six units together with the Council's existing small number of homes could provide a further asset which would add to the existing rental income generated from the Council's current housing stock.

## **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The Council could allocate funding secured through commuted sums and the Better Care Fund to Registered Providers (RP) to support the strategic delivery of these six units as new social sector homes for social rent but would still need to provide some level of funding to enable the homes to be let at social rents. The units would be allocated to those in housing need on the housing register however the RP would retain ownership of the units and so the Council would not receive any rental income from these units to support the long-term financial plan.

## **3.0 BACKGROUND INFORMATION**

- 3.1 Housing shortage and affordability is a national issue, with the Government clear in its housing ambitions to build 300,000 affordable homes per year. To help achieve this, there is a national drive for Councils to start building again or acquire units to help meet the national and local housing need. To achieve these housing ambitions, the Government finances a national Affordable Housing Programme which enables Registered Providers and Local Authorities to bid for funding to help finance affordable housing. Wirral Council would be able to submit a bid for funding if a decision to build Council houses is made.
- 3.2 In 2005, Wirral Council transferred its housing stock but retained a strategic housing function and its statutory duties including allocating housing to those most in need and alleviating homelessness. The 2017 Homeless Reduction Act extended the legal duty on all Councils to prevent and alleviate homelessness.

### **Need and Demand**

- 3.3 In recent years, the demand for housing has increased and there is an annual shortfall of affordable housing in the borough. As of 31st December 2020, there were 10,614 households registered on Property Pool Plus, the Council's Choice Based Lettings Scheme, and of those, 2,230 were considered to have an assessed housing need (Bands A – C).
- 3.4 The extent of the housing shortage in Wirral is further evidenced in the Strategic Housing and Market Assessment (2020) which has highlighted an annual net shortfall of 374 affordable housing units.
- 3.5 Increasing homelessness and an imbalance in housing supply means more properties are needed to accommodate the growing population. This is not only a question of numbers but of type and choice. A balanced supply is needed to meet specific needs; family size, disability and affordability otherwise people will be inappropriately accommodated, which can lead to issues relating to wellbeing, poverty and homelessness having a significant impact on their lives.
- ### **Strategic Approach to Social Sector Housing Delivery**
- 3.6 To address this imbalance, the Council works strategically with key agencies such as Homes England who allocate and manage the Government's Affordable Homes Programme and Registered Providers to bring forward affordable housing developments, some of which may also utilise Council land assets. This funding opportunity also enables the development and delivery of social rented homes within

areas of high affordability challenge or elsewhere, provided that the grant requested is not higher than it would be for an affordable rented unit.

- 3.7 In Wirral, some Registered Providers have secured funding to deliver a small number of affordable rented homes where they have also used other financial resources to enable them to charge less than the maximum (80% of market rent) they can. There are 45 social rented units currently in development in Wirral where the Registered Provider has managed to adopt this limited approach.
- 3.8 Wirral is no stranger to piloting new initiatives and maximising the use of different funding streams to address the delivery of new social housing sector homes. An example of this was in 2011, when Wirral Council was successful in securing Homes England funding to build 23 homes across three of its own sites in the borough, providing a range of houses, bungalows and apartments to help address housing need. These units remain in Council ownership and provide the Council with an annual rental income of over £90,000, plus Council Tax income. The homes are managed on its behalf by a Registered Provider at an annual cost to the Council of approximately £20,000. All tenancies are secure Council tenancies and individuals are charged a social rent for their homes.
- Pilot Council housing scheme at Sevenoaks, Rock Ferry
- 3.9 The former Housing Market Renewal Site in Rock Ferry, Sevenoaks, has seen the development of over 220 new homes already. A planning application for the final phase of this scheme for 43 units is currently being considered. This will complete the masterplan for the area with the Council's developer partner Lovell Partnerships Ltd.
- 3.10 The site being developed presents an ideal opportunity for the Council to pilot the approach of purchasing a small number of new build, specially adapted, social rented units. Officers have explored this option with the developer Lovell Partnerships Ltd and the Council now has the opportunity to purchase six units on the site.
- 3.11 There is an acute shortage of this type of accommodation and it is proposed that these new homes could be used to support people who may need temporary accommodation whilst their longer-term housing options are addressed. In addition, the bungalows proposed could assist the Council in supporting people who are not able to be discharged from hospital as they have specific adaptation needs which cannot currently be addressed elsewhere.
- 3.12 Lovells have offered to provide six units on this site to Wirral Council built at cost plus 10% which is the rate they would sell to a Registered Provider. Appendix 1 (exempt) shows a summary of these costs.
- 3.13 These costs are subject to an appraisal and verification by an independent cost consultant, Lambert Smith & Hampton. Appendix 1 is exempt from publication under Paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.

## **FINANCIAL IMPLICATIONS**

- 4.1 Officers are currently in discussion with Homes England regarding the possibility that Wirral Council could bid for Affordable Housing Programme funding to lever in additional funding for these units. Wirral would need to re-apply for Investment Partner status to do so.
- 4.2 Planning policy requires an affordable housing contribution (subject to viability) for sites of more than 10 units in Wirral. Wirral Council's policy is for on-site provision wherever possible, but the Council can receive a commuted sum in lieu of units for those sites where on-site provision is not able to be achieved. If planning approval is approved subject to this requirement then a Section 106 agreement is drawn up to as part of the planning process to ensure either on site units are provided or if agreed a commuted sum in paid to the Council to use for the delivery of affordable homes in the borough.
- 4.3 To date, Wirral Council has received a total of £1,098,219 in commuted sums secured through Section 106 agreements, a source of income which is ring-fenced for affordable housing in the borough. The Council can utilise this income for the delivery of new affordable homes on sites in the future. There is also the possibility that some additional commuted sums may be secured through this route going forward, if sites are viable financially and on site affordable housing provision cannot be achieved.
- 4.4 As four of the properties are adapted units, the Council also has access to Adaptations funding which is passported through the Better Care Fund. Officers have consulted with Foundations, the Governments advisory agency on home adaptations, who have advised that the funding can be used for this purpose. Flexibilities allows this funding to be utilised towards the general acquisition costs of adapted properties.
- 4.5 The remaining financial implications for these units can be found in Appendix 1 of this report, which is exempt from public information as it contains commercially sensitive information.

## **4.0 LEGAL IMPLICATIONS**

- 5.1 Lovell Partnerships Ltd was originally appointed as Development Partner for the Sevenoaks scheme in Rock Ferry and this agreement has been extended to 2024 so as to enable completion of this final scheme . A planning application for the remaining 43 units is currently being considered by the Council and subject to planning approval, they intend to commence work later on in 2021. An appraisal for this last phase of the scheme has been externally validated by Lambert Smith and Hampton as per the terms of the Development Agreement and therefore the Council will now proceed to finalise the Lease with Lovell Partnerships Ltd to enable them to commence on site. The six units the Council is looking to retain will not be part of the lease and so a variation to the development agreement will be needed to enable the freehold of these plots to remain with the Council. The Council will then enter an appropriate legal contract with Lovell Partnerships Ltd for these specific six units.

- 5.2 The Council currently has an agreement with a Registered Provider to manage the Council's existing general needs housing stock of 23 units. This agreement is due to expire in August 2021 and if approval is secured to purchase these additional six social housing sector homes, they will be included in a new tender exercise for the management of the Council's housing stock.
- 5.3 A Local authority may hold up to 199 homes outside the HRA under a Government direction. Local authorities planning to build outside the HRA must write to the Secretary of State for Housing, Communities and Local Government to apply for a direction that permits homes to be held outside the HRA; this is usually a formality, though in some instances there is a duty to consult and so the Council will need to progress this, if members agree to this pilot approach.
- 5.4 If the Council were to build and retain units, there would be a requirement to provide Tenancy Agreements for each property. An existing Tenancy Agreement is currently in place for the 23 units of general needs Council owned property, and this could be utilised for any new properties.
- 5.5 If the Council successfully applies for funding from Homes England Affordable Homes Programme, it will need to sign a grant agreement and enter into legal obligations.

## **5.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 There are no HR implications resulting from this proposal.
- 6.2 If the properties are new build, there will be a build contract, including a detailed specification required before the building work can start. If the recommended option is taken forward, Lovells are already the appointed developer for the scheme with rights to this site. The project management of this acquisition and ongoing monitoring of these units will be progressed through existing resources from within the Council.
- 6.3 There are no ICT implications arising from this proposal.
- 6.4 There will be an asset implication resulting from this proposal as the number of properties owned by the Council will increase, and the management, maintenance and upkeep of the properties will need to be managed by the Council via a contracted Registered Provider. This is currently in place for the Council's existing general needs housing stock.

## **6.0 RELEVANT RISKS**

- 7.1 Properties are not developed to the correct specification. This risk is mitigated by project oversight . staged payments with final payment not being paid until properties meet a required standard and are covered by a NHBC certificate. t.
- 7.2 The developers overspend on the build contract. This risk is mitigated by a contract which provides a set cost for each unit. Regular scheme progress meetings will take place to ensure the project does not overspend. The cost of the units includes a

contingency which can be utilised without overspending once the developer has permission.

- 7.3 As the units would be Council owned, tenants will have the Right to Buy their home, which will reduce the future income of the units. The Council will be able to recoup some of the build costs from the sale but depending on the amount of discount, this may not cover all costs.

## **7.0 ENGAGEMENT/CONSULTATION**

- 8.1 Engagement regularly is undertaken by officers from the Housing and Investment Team with Registered Provider, Homes England and relevant agencies, in relation to the development of new social sector housing in the borough.

## **8.0 EQUALITY IMPLICATIONS**

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity. An EIA was completed for Wirral's Housing Strategy 2016 – 2020  
<https://www.wirral.gov.uk/sites/default/files/all/communities%20and%20neighbourhoods/Equality%20Impact%20Assessments/EIA%20since%202014/Regeneration%20and%20environment/Housing%20Strategy%202016%20-%202026%20EIA.pdf>  
The EIA included consideration of the work Wirral Council does in relation to the development of new affordable housing to meet the diverse housing needs for the borough and is still valid.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 10.1 Morgan Sindall Group plc, the parent company of Lovell Partnerships Ltd, has been awarded an A grade by CDP, formerly the Carbon Disclosure Project, in recognition of its actions to tackle climate change and efforts to do business in a greener, more sustainable way and so this development will benefit from this approach to addressing climate change.
- 10.2 Whilst it is recognised that house building increases the total amount of CO<sub>2</sub> emissions from the domestic sector, the homes which Lovell will be building have been designed to produce 20% less CO<sub>2</sub> emissions than homes built to current Building Regulations, this includes addressing air leakage performance and mechanical ventilation for heat recovery. There is a possibility of reducing CO<sub>2</sub> emissions further by installing solar photovoltaics at a cost of £4,500 per unit and discussions are ongoing with Lovell Partnerships Ltd to see if these can be realised.
- 10.3 The content / recommendations in the report are therefore expected to reduce Greenhouse gases.



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**APPENDICES**

Appendix 1- Financial implications analysis.

Appendix 1 is exempt from publication under Paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.

**BACKGROUND PAPERS**

Lambert Smith and Hampton Land Value Review - Appendix 1 is exempt from publication under Paragraph 3 of part 1 of Schedule 12A of the Local Government Act 1972 as it contains commercially sensitive information.

Housing ~Benefit Subsidy Guidance Manual, Section 6: Temporary Accommodation  
Planning Application reference APP/20/01728

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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