

## ***Report to the Cabinet***

**Report reference:** C-023-2009/10  
**Date of meeting:** 7 September 2009



**Portfolio:** Housing  
**Subject:** Formation of a Local Housing Company – Specialist Legal Advice  
**Responsible Officer:** Alan Hall (01992 564004).  
**Democratic Services Officer:** Gary Woodhall (01992 564470).

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### **Recommendations/Decisions Required:**

- (1) That the feasibility of the Council setting up a Local Housing Company to purchase properties off the open market to let at market rents, funded by a loan from the Council, be investigated further;**
- (2) That specialist solicitors, Trowers and Hamlin, be appointed to advise the Council on the legal issues involved;**
- (3) That a more detailed financial appraisal be undertaken by the Director of Finance and ICT on the financial issues involved, based on the legal advice obtained;**
- (4) That a virement of £6,000 be agreed from the District Development Fund Budget for Private Sector Housing Assistance Policy, held by the Housing Portfolio, to fund legal and financial fees; and**
- (5) That a further report be considered by the Cabinet in due course, setting out the legal, financial and other issues and whether the initiative should be considered further.**

### **Executive Summary:**

The report proposes the undertaking of a feasibility study into the formation of a local housing company to purchase open market properties to let at market rents, funded by a loan provided by the Council. This would require specialist legal advice.

### **Reasons for Proposed Decision:**

The Council may be able to obtain a higher financial return from funding a local housing company to purchase private properties, than from its usual investment sources.

### **Other Options for Action:**

Not to proceed with the feasibility, or to undertake the feasibility in a different way than proposed.

## Report:

1. In the current economic climate of low interest rates, the Leader and Deputy Leader of Council have been considering ways of increasing income for the Council from its investments. At present, the highest level of interest being received from the Council's investments is around 1%.

2. It is possible that the level of return could be increased if the Council used some of its usable capital receipts to purchase properties on the open market, and then let them at market rents, which could produce a rental yield of around 5%. If the number of properties involved was sizeable, it could result in significantly increased income for the Council.

3. However, since the Council would be the landlord, the tenants would have to be provided with secure tenancies (unless the tenants were formerly homeless people) (Housing Act 1985), with all the rights associated with secure tenancies. In addition, the rents would have to be provided at "affordable" levels, in accordance with CLG guidance on rent levels, and not (much higher) market rents, which would result in lower income and obviate the financial benefit.

4. The Leadership and the Housing Portfolio Holder have therefore given initial consideration to the possibility of the Council setting up a Local Housing Company, which could purchase the properties and let them at market rents, with a loan from the Council. In addition to the Council receiving the loan interest (currently around 4%), any surplus rental income (after the deduction of the loan interest and other costs such as a legal, management and corporation tax) could also be returned to the Council through a legal agreement. The Directors of the Company would be Council members.

5. Initial costings by the Asst. Director of Finance & ICT (Accountancy) suggest that, for every 10 properties purchased and let in this way, the Council could receive additional investment income (currently) of around £57,000 per annum from that obtained from normal investments. Moreover, the properties could be let to homeless applicants and other applicants on the Council's Housing Register, who would normally be unable to access the private rented market, due to the need to fund rent and deposits in advance.

6. However, such an arrangement would be fairly unique and, in the first instance, it would be necessary to obtain specialist legal advice on, amongst other things:

- (a) how the company would have to be set up;
- (b) how the company would operate;
- (c) the legal powers available;
- (d) the required consents; and
- (e) initial tax advice.

7. In addition, it would be necessary to undertake a more detailed financial appraisal of the potential costs and income, and whether the initiative would be financially viable.

8. Once the Council has this information, it would be in a position to make a prudent decision on whether or not to proceed with such an arrangement and, if so, in what way. If the scheme was to go ahead, a decision would need to be made on the level of loan that should be provided to the Local Housing Company.

9. The Asst. Director of Corporate Support Services has made contact with a legal firm that specialises in this area, Trowers and Hamlin, who have agreed to investigate and report on the relevant issues for £1,500 plus disbursements. They have also suggested that, subject to certain assumptions, their fees for putting a scheme in place would be between £5,000 - £7,000.

10. Since there is no General Fund revenue funding available for the legal and any necessary financial fees, it is suggested that a virement of £6,000 be agreed from the un-utilised District Development Fund Budget for Private Sector Housing Assistance Policy, held by the Housing Portfolio. This would cover the initial legal fees, with some additional funding available to meet any other initial feasibility costs, which may include specialist tax advice.

11. It is proposed that a further report be considered by the Cabinet once the initial feasibility has been undertaken.

**Resource Implications:**

Up to £6,000 at this stage, funded by a virement from the District Development Fund Budget for Private Sector Housing Assistance Policy

**Legal and Governance Implications:**

To be investigated as part of the subsequent feasibility report.

**Safer, Cleaner and Greener Implications:**

None.

**Consultation Undertaken:**

None.

**Background Papers:**

None.

**Impact Assessments:**

If the Council proceeds with the proposed initiative, it will be necessary to undertake an Equalities Impact Assessment.

The subsequent report to the Cabinet will also set out the risks.