

Cabinet Meeting Resolution

Executive  
Forward Plan  
Reference

**E2785**

**Establishment of a Local Property and Development  
Company**

<b>Date of Meeting</b>	2-Dec-15
<b>The Issue</b>	<i>To approve the establishment of a local housing and development company for private market housing and developments.</i>
<b>The decision</b>	<p><b>RESOLVED</b> (unanimously) that the Cabinet agreed to the:</p> <ol style="list-style-type: none"> <li>1) Approval of the Outline Business Case for the establishment of the Company</li> <li>2) Establishment of a Company limited by shares, for this purpose, to be wholly owned by the Council in line with the proposed structure set out in the report.</li> <li>3) Approval of the composition of the Company's Board.</li> <li>4) Utilisation of appropriate investment to deliver, own and manage residential and property developments on a case by case basis.</li> <li>5) Transfer the relevant Title of the existing residential properties to the Company, subject to approval of the terms of such transfer by the Corporate Property Officer in accordance with S123 of the Local Government Act.</li> <li>6) Delegate to the Leader the exercising of all Council functions as sole shareholder of the Company, with the exception of any changes regarding ownership of the Company.</li> <li>7) Delegation to the Chief Executive and Strategic Director of Resources, in consultation with the Leader and the Cabinet Member for Homes &amp; Planning, of the approval of Council investment in the Company within approved budgetary provisions, including but not limited to the:             <ol style="list-style-type: none"> <li>i) terms of Council investment</li> <li>ii) business cases for future development proposals to be undertaken by the Company.</li> <li>iii) terms of any guarantee to be provided to support the provisions of the investment</li> <li>iv) terms of any loan or equity agreement between the Council and the Company</li> <li>v) such others matters as are regarded as necessary to enable the provision of the investment, progress of the developments and their subsequent sale, lettings and on-going management.</li> </ol> </li> <li>8) Delegation to the Strategic Director (Resources) in consultation with the Leader to finalise and agree the and Articles of the Company and other such matters necessary to (i) incorporate and register the Company and (ii) facilitate the objectives identified in this report.</li> <li>9) Full Approval of the existing Capital funding provision of £6.536M to support investment in the Company in accordance with 2.6 above.</li> </ol>

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	<p>10) Note that all further decisions regarding the future level of Capital Funding for potential investment in the Company will be subject to the approval of the Full Council and form part of the Budget process for 2016/17.</p> <p>11) Agree that an annual report will be provided by the Company to the Council setting out its activities, performance and accounts.</p> <p>12) The Strategic Director (Resources) is given delegated authority to finalise the service provision arrangements between the Council and the Company for all required support services, including officer support.</p> <p>13) Indemnification, to the full extent permissible under the Local Authorities (Indemnities for Officers and Members) Order 2004, of the Council officers and Members in respect of any personal liability arising as a result of their appointment as directors of the Company.</p>
<p><b>Rationale for decision</b></p>	<p>This proposal will support the delivery of the Medium Term Financial Plan and Strategic Objectives.</p> <p>The Company will be established in accordance with the powers set out under S1 of the Localism Act 2011 (the general power of competence).</p> <p>Legal advice has been sought confirming that on the face of it, the renting of housing at market rents would be pursuing a "commercial purpose" even if the Council's ultimate purpose was to create mixed, economically active communities. Further, on the understanding that it is the Council's intention to seek a commercial return from its participation in the Company, for example through dividend distribution, the Council has been advised that such action would be likely to be deemed a commercial purpose. Indeed this view has been borne out by the authorities that have set up such companies to date.</p> <p>Under Section 4 of the Localism Act 2011 Act a Council exercising its general power of competence for a commercial purpose must do so through a company or a (Community Benefit Society). Therefore the "commercial" nature of the enterprise would justify the Council's establishment of, and participation in, the Company.</p> <p>All land and property transactions between the Council and the Company must comply with S123 of the Local Government Act 1972.</p>
<p><b>Other options considered</b></p>	<p><b>Do nothing</b> - Council continues piecemeal disposal of surplus land and properties. This would provide capital receipts to the Council for which alternative commercial investment could be sought, although the overall yields for the Council would be less. There would also be no guarantee over the use of the disposed site or speed of development.</p> <p><b>Prioritise Sales land for Market Housing Development</b> – Similar to option in above with a more proactive approach to disposal of surplus land and properties. Similar issues to the do-nothing approach, although the capital receipts could be generated more quickly.</p>

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	<p><b>Joint Venture Options between the Council and Private Developers –</b> This option provides the potential to secure market capital and capacity but is likely to increase overall costs and reduce the overall revenue benefit to Council. This option will be considered further as part of business case approach to each development.</p>
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**The Decision is subject to Call-In within 5 working days of publication of the decision**