

## **CABINET**

**Date and Time:** Thursday, 1 October 2015 at 7pm

**Place:** Council Chamber, Civic Offices, Fleet

**Present:**

## **COUNCILLORS**

Burchfield, Crampton, Crookes, Forster, Gorys, Kennett (arrived 7.11pm), Morris, Parker (Chairman)

**In attendance:**

Councillors Oliver, Neighbour, Radley JE, Wheale

**Officers:**

Daryl Phillips Joint Chief Executive

John Elson Head of Environment and Technical Services

Phil Turner Head of Housing Services

### **47 MINUTES OF PREVIOUS MEETING**

The Minutes of the meeting of 3 September 2015 were confirmed and signed as a correct record.

### **48 APOLOGIES FOR ABSENCE**

No apologies.

### **49 CHAIRMAN'S ANNOUNCEMENTS**

None.

### **50 DECLARATIONS OF INTEREST**

None declared.

### **51 PUBLIC PARTICIPATION (ITEMS PERTAINING TO THE AGENDA)**

None.

### **52 LOCAL PLAN STEERING GROUP**

The Minutes of the Local Plan Steering Group held on the 25 August 2015 were noted.

## **53 WEHEARTHART PETITION**

Members received the WeHeartHart Petition which was presented by Mr David Turver. The Leader of the Council had consulted with Members through the Local Plan Steering Group and a draft response had been sent in advance to Mr Turver. Mr Turver had also previously circulated to Members the sort of answers and approach that he was seeking from the Council in responding to the petition.

Members discussed the Leader's draft response. This included comments about the input into the background calculations that informed the Hart/Rushmoor/Surrey Heath Strategic Housing Market Area Assessment (SHMA) with particular emphasis on the economic growth input. Whilst the robustness of the SHMA had recently been tested at the planning appeal for the Hop Garden, Hook, it was noted that the SHMA was under constant review as relevant data sets are refreshed and that future iterations of the SHMA would need to be mindful of the implications of the emphasis placed on certain data inputs.

There was much discussion on the contribution that brownfield land could make to the delivery of future housing numbers. This included comments about the availability of land, potential densities, office conversion, redevelopment, housing types and mix, availability of infrastructure, built form etc. It was agreed that it was difficult to give a finite response with regard to brownfield land capacity as much depended upon market forces, land availability and deliverability, owner agreement, windfalls, employment/job balance, and availability of infrastructure for example. To create any degree of certainty and to contribute toward brownfield land capacity, the site must be available for development now or in the near future and where there was evidence that the owner would be willing to make the land or buildings available for new housing, provided planning permission could be obtained. Current thinking was that brownfield land capacity was approximately 1800 dwellings but this was not a definitive figure.

Comment was made about assessing environmental capacity of development with an evaluation of the value of Hart's Countryside. It was recognised that it was hard to put a quantifiable price on the value of the countryside given the absence of significant landscape designations such as Area of Outstanding Natural Beauty for example. Special Protection Areas and Flood Zones were constraints to development as were heritage designations such as Historic Parks and Gardens but these in themselves would not limit Hart's capacity to meet housing needs. Landscape work and sensitivity to development was being carried out and all this would need to be reflected through the Sustainability Appraisal process which was one of the statutory tests of soundness of a Local Plan.

### **RESOLVED**

The petition be noted.

## **54 FROGMORE DAY CENTRE ROOF**

This item was deferred until the November meeting of Cabinet.

**55 PHOTOVOLTAIC ARRAY ON THE CIVIC OFFICES ROOF – FINANCIAL BENEFITS**

Members considered the report providing information regarding a proposal by the Cabinet Member for the Environment and Technical Services to install solar (photovoltaic) modules on the roof of the Civic Offices.

**RESOLVED**

That the proposal to install solar (photovoltaic) modules on the roof of the Civic Offices based on the cost benefit analyses in 6.0 be supported.

**56 LOCAL PLAN TIMETABLE**

Members received an updated local plan timetable in the form of a new Local Development Scheme.

**RESOLVED**

That the Local Development Scheme: Fifth Revision is brought into effect on 2 October 2015.

**57 ACCESS CONTROL SYSTEM – CIVIC OFFICES**

Members considered a report recommending the purchase of a replacement door access system to ensure that the building is secure and safe for our staff and tenants.

**RESOLVED**

To purchase a replacement door access system for the cost of £19,445.00 + VAT and additional yearly maintenance of £385.00 + VAT (2 visits).

**58 ESTABLISHMENT OF A LOCAL HOUSING COMPANY**

Members considered a report seeking approval to establish a local housing development company, which would (further to future approvals from Cabinet) seek to purchase and potentially build residential properties for sale or rent. An update to the report had previously been circulated to Members (attached as Appendix 1).

**RESOLVED**

- 1 That the principle of utilising appropriate investment to develop a portfolio of properties (through a wholly owned company) be agreed
- 2 That a company limited by shares be established, wholly owned by the Council to own and manage properties
- 3 That the Head of Finance, the Head of Housing, the Joint Chief Executive, Cabinet Member for Finance and the Cabinet Member for Housing be delegated, via a Portfolio Decision, to finalise the Terms of Reference and

Company Memorandum and Articles of the local authority company proposed and other such matters necessary to incorporate and register the company.

- 4 That the company cannot start trading until a further report has been brought to Cabinet to confirm that a sound Business Plan for the company has been established.

## **59 CABINET WORK PROGRAMME**

The Cabinet Work Programme was considered and amended to include a request for a report in February 2016 concerning further details pursuant to the establishment of a Local Housing Company.

The meeting closed at 8.45pm

## **AMENDED RECOMMENDATION AND BACKGROUND INFORMATION TO PAPER G - ESTABLISHMENT OF A LOCAL HOUSING COMPANY**

### **Amended Recommendation**

Cabinet:

1. Agree the principle of utilising appropriate investment to develop a portfolio of properties (through a wholly owned company (DevCo)),
2. Agree to establish a company limited by shares, wholly owned by the Council to own and manage properties.
3. Delegate to the Head of Finance, the Head of Housing, the Joint Chief Executive, Cabinet Member for Finance and the Cabinet Member for Housing via a Portfolio Decision to finalise the Terms of Reference and Company Memorandum and Articles of the local authority company proposed and other such matters necessary to incorporate and register the company.
4. Agree that the company cannot start trading until a further report has been brought to Cabinet to confirm that a sound Business Plan for the company has been established.

### **Local Authority Companies**

The establishment of the company will be in accordance with section 95 of the Local Government Act 2003 and Section 1 of the Localism Act 2011 (the general power of competence).

The company would be a body limited by shares. The Council would be the sole shareholder. The company will be set up in accordance with the Companies Act 2006, including the appointment to the Board of the company. In the first instance it will need to appoint a Company Secretary and at least one other director, file audited accounts and annual returns. Financial resources to do this would initially be provided via the Council who would borrow through its General Fund (for example from the Public Works Loans Board (PWLB) at a low rate) and make an income through on-lending at a higher commercial rate to the DevCo. This arrangement would help to avoid any State Aid issues. There is scope for the DevCo to attract external investment.

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 Solicitor to the Council.

### **Proposed Company Structures**

Setting up a DevCo requires work to be undertaken which is relatively straightforward including developing the Business Case and Business Plan.

It is proposed that the company is initially established with an off-the-shelf name from Companies House and a permanent name and brand will then be agreed by the Company Management Board.

It is recognised that the structure of the company may change and develop over time according to decisions made by the Company Management Board or by the Council, in line with the Scheme of Delegation. Initially it is proposed that the company is formed of Members and officers. The Company Management Board will be guided by the company's Terms of Reference and Articles of Association. The Board positions will not be remunerated.

The Company Management Board will be responsible for the overall management of all aspects of the company. This will include making sure that the company upholds all legal requirements, such as submitting annual accounts and sending notifications of changes in personnel to Companies House. In addition the Company Management Board will oversee the management of the property portfolio, ensuring that properties are purchased or developed in accordance with agreed criteria and regular reviews of the financial model are undertaken.

The company will have a Company Secretary whose duties would include maintaining the statutory registers including:

- Register of Members
- Register of Directors and Secretary
- Register of Director's Interests
- Register of Charges

Initially it is proposed that the board membership be as follows:

- Cabinet Member for Finance – Board Chair
- Cabinet Member for Housing
- Head of Finance - who will also be the Company Secretary
- Head of Housing Services
- Joint Chief Executive – who will also be Company Managing Director

The sole member (or shareholder) of the company will be the Council. So that the Council, as sole shareholder, can take decisions in its capacity as shareholder, it needs to have a person acting as its representative who can attend general meetings and/or make sole member resolutions. An example of when the Council as sole shareholder would need to take such decisions is whenever the company constitution needs to change. The Joint Chief Executive will be the Council shareholder's representative.

## **Financial Implications**

Properties will be purchased/developed and owned/managed by a separate local authority company which will act as owner of the properties. There will be an initial capital investment plus a need for initial start-up loan to cover working capital requirements. This funding will be used to develop, purchase and renovate homes. This will be the subject of a further report to Cabinet.

The project will have the potential to utilise lower cost public funding and make an income for the General Fund through on-lending at a higher commercial rate to the DevCo. This arrangement would help to avoid any State Aid issues.

In the meantime there will be one-off costs to cover the setting up the company and project management, as well as the legal and financial advice required to establish a sound Business Plan for the DevCo. It is recommended that an initial sum of £50,000 is set aside from reserves.

## **Procurement**

The wholly owned local authority company will provide the substantial part of its services to the Council therefore the Council can benefit from the Teckal Exemption, which enables the Council to procure the services of the local authority controlled company directly without the need for carrying out a procurement process. If the company is to have any private ownership/interest in the future, the Council will be required to carry out a procurement exercise in accordance with the Contract Procedure Rules and in particular the Public Contract Regulations 2006 (and amendments thereto) depending on the role of the private partner and the purposes of the joint venture.

## **Property**

The properties will be owned by the local authority company<sup>1</sup>; that company is able to offer tenancies such as Assured Shorthold Tenancy Agreements or full Assured Tenancies which would not attract right to buy. A nomination/management agreement can be agreed between the Council and the local authority company; such will be in a form agreed by Solicitor to the Council.

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<sup>1</sup> It should be noted that on 20th March 2015, Brandon Lewis MP (Minister of State for Housing and Planning) provided a written statement to Parliament relevant to the Government's position on development companies. The statement reaffirmed that it is Government policy that where a local authority is developing, acquiring or retaining new social or affordable homes rent, that they should be provided using the powers available under part II of the Housing Act 1985 and that the Government did not support the use of development companies owning affordable homes as a means to circumvent right to buy.