

Committee: Cabinet

Date: 16 November 2023

Wards: Borough Wide

Subject: Housing Delivery and Review of Property Assets

Lead officer: Lucy Owen Executive Director for Housing and Sustainable Development.

Lead member: Councillor Andrew Judge Cabinet Member for Housing and Sustainable Development

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Exempt or confidential report

The following paragraph of Part 4b Section 10 of the constitution applies in respect of information within the appendices and it is therefore exempt from publication.

Information relating to the financial or business affairs of any particular person (including the Authority holding that information)

Members and officers are advised not to disclose the contents of the appendices.

Recommendations:

- A. That Cabinet notes the update and recommendations arising from the externally led asset review on how the Council's ambition to deliver 400 new council homes can be met.
 - B. That Cabinet agrees not to dispose of the next tranche of sites, as previously agreed, and instead allocates the sites for the affordable homes programme either through Council led delivery or development partnership.
 - C. That Cabinet approve design and viability work to being on the following three sites: Worsfold House, Chaucer Centre and Gifford House.
 - D. That Cabinet approve the commencement of soft market testing with the private sector on a partnership arrangement to deliver homes at the land at Battle Close.
 - E. That Cabinet approve the allocation of the expected capital receipt from the sale of the land at St George's Rd to support the design work for the three sites highlighted above in C, and to support procurement for development through a partnership for the land at Battle Close, if soft market testing is positive.
 - F. That the land at 111-127 The Broadway SW19 (also known as P4) be brought to the market and that the Executive Director of Housing and Sustainable Development, in consultation with the Cabinet Member for Housing and Sustainable Development, be authorised to agree terms for a disposal.
 - G. That the capital receipt from the sale of the land at 111-127 The Broadway SW19 is ringfenced to support the delivery of the Council's affordable homes programme.
 - H. That Cabinet notes the finance, timescale and officer resource implications for the continuing programme, including the conclusions from a report into the viability and timing of setting up a new Council Housing Revenue Account.
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- I. That Cabinet notes the proposed Governance arrangements for ensuring oversight of the housing programme moving forward.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To review the previous decision for the proposed disposal of surplus council property to facilitate the increase in supply of residential property.
- 1.2. To inform members of the findings and recommendations of the Asset Review undertaken by Savills and the proposed actions to bring forward a pipeline of sites to deliver 400 new affordable homes.
- 1.3. The Savills report has identified the next tranche of sites suitable to provide housing. Agreement is now sought for these assets to be progressed.
- 1.4. To note the governance arrangements being proposed to ensure effective oversight of the housing programme moving forward, and sign off at key gateway points, as the Council builds its capacity and capability in this area.

2 DETAILS

- 2.1. At its meeting of 6 December 2021 Cabinet declared the following properties surplus to requirements: Elm Nursery Car Park, Rayleigh Gardens Car park, Farm Road Church, Land adjoining the Canons Waterfall Cottages, Worsfold House, Chaucer Centre, Gifford House, Former Virgin Active site, Battle Close, Wimbledon.
- 2.2. It agreed the recommendation that the properties be marketed for housing as soon as they were ready and that the Director of Environment & Regeneration in consultation with the Cabinet Member considers that the market is favourable.
- 2.3. In a report dated 10 October 2022 Cabinet agreed not to dispose of the first four sites being Elm Nursery Car Park, Rayleigh Gardens Car Park, Farm Road Church and land adjoining Canons for private sale and instead allocated the sites for affordable homes delivered by the council or a Registered Provider (Housing Association)
- 2.4. Further following the report dated 19 June 2023 approval was provided to enter into a collaboration agreement with L&Q in order to carry out the development management and delivery of 93 council homes for the council on the first four sites. The Council has appointed Inner Circle Consulting to support the strategic programme and increase Council capacity to effectively client L&Q while internal capacity is put in place.
- 2.5. This report also advised Cabinet that a strategy would be created for the remainder of the housing delivery programme and of the appointment of Savills to undertake a review of the Council's property assets to inform this strategy. To bring forward sites for housing delivery and identify assets which may be disposed of to achieve a capital receipt to contribute to the funding of that programme.
- 2.6. The review has now reported on its findings and recommendations.

Review recommendations

- 2.7. The asset review looked at the property assets across the council portfolio to identify sites suitable for residential development. It looked at early opportunities for the council and key dependencies together with the potential quantum of residential units that could be accommodated on each suitable site and provided a timeline.
- 2.8. The review looked at all these assets and assessed them in terms of deliverability, risks, costs and capacity.
- 2.9. The recommendations of the review put the sites into a number of ‘tranches.’
- 2.9.1 **Tranche 1** – sites either cleared or where vacant possession can be achieved within a short timescale. Subject to concluding legal and financial due diligence, these sites could be available to start design within the next 12 months.
- 2.9.2 **Tranche 2** – sites with more logistical or planning issues. This tranche includes some sites where the current use will need to be reprovided within the new development.
- 2.9.3 **Tranche 3** – Sites with more complex logistical or planning issues and where engagement with additional stakeholders will be required. It should be noted that potential for bringing together Council land with land owned by our partner housing association at Pollards Hill is noted as tranche 3, but we have already been in discussion with our partner about this, so will consider bringing this forward to an earlier tranche.
- 2.10. **Disposal tranche** – sites which aren’t appropriate for affordable housing delivery and will bring more value via a straight disposal.
- 2.11. Overall, the Savills’ report highlights there is potentially (subject to planning, design, further feasibility and red book valuations) capacity for around 698 homes on the sites identified of which around 537 are presumed to be affordable. This does not include the 93 affordable units from the 4 sites already identified and being taken forward through a collaboration agreement with L&Q, as agreed by Cabinet at their 19 June 2023 meeting (this is referred to in the report as **Tranche 0**).
- 2.12. The Savills’ report also provides a high-level indicative range of values for the sites in the disposal tranche, which could support cross-subsidy to deliver the Council’s home building ambitions. It should be noted that the current market is declining for sales values, so the timing of these disposals should be considered. Disposal values could be in the range of £5.4m - £11m.
- 2.13. This report focuses on how to take forward the sites in ‘tranche 1’ and one of the sites in the disposal tranche.
- Delivery Routes and Structures**
- 2.14. Alongside this, Savills also provided recommendations on delivery routes for these sites.
- 2.15. The report sets out how for multi-site programmes, it is appropriate and typical for Local Authorities to use a range of delivery routes and structures. Using a balanced approach in this way helps to manage resources, funding

and risk exposure at a programme level. The Savills report sets out some case studies of how different Local Authorities have approached this.

- 2.16. Several of the identified sites are smaller sites, in areas with lower land values. It is proposed these sites are best Council-led, and 100% affordable housing (70% social rent, 30% shared ownership), to maximise GLA grant.
- 2.17. Some of the sites are larger and in areas with much more valuable land values. These sites are proposed to be delivered through a development agreement – a partnership with a private sector developer.
- 2.18. Larger-scale schemes located in higher value areas where private sale revenues can help to cross-subsidise affordable housing delivery are recommended for partnership working. Through a Development Agreement structure the Council can benefit from the funding, resource and expertise of a developer partner whilst not having to fund an entire scheme. However, the agreement still enables a considerable level of control, examples provide below:
- (i) The Council can ensure excellent design quality through its Employers Requirements which would be appended to the Development Agreement.
 - (ii) Sign off of architects, designs and the planning application can also be secured.
 - (iii) Planning and delivery timescales can be secured through target and longstop dates for key project milestones.
 - (iv) The Council can also exert control over the planning application to be secured by its developer partner through Council Onerous Conditions, and oversight and sign-off of the planning application.
 - (v) The Council can ensure a 50% level of affordable homes, and that the homes will be Council Homes on practical completion. Through this structure, a developer partner will require revenue in relation to the affordable housing which the Council could cover through a reduction in or a zero land value (subject to project viability), affordable housing grant, and / or cash investment.
- 2.19. Four sites have been identified to form the next tranche of the housing delivery strategy. These are Chaucer Centre, Battle Close (former virgin active site) Gifford House, and Worsfold House.
- 2.20. As these sites had previously been agreed by Cabinet for disposal approval is now sought to instead allocate the sites for affordable homes either through Council led delivery or development partnership.
- 2.21. Chaucer Centre, Gifford House and Worsfold House sites will now be progressed to achieve a council led development of affordable homes.
- 2.22. It is proposed that a soft market testing exercise be undertaken regarding a development partnership for the Battle Close site. This will help to identify the appetite in the development market for the site and the potential level of viability. It will also start to drive interest from high quality, trusted developers.
- 2.23. To support the Housing delivery strategy, it is also proposed that the site at The Broadway in Wimbledon also known as P4 be brought to the market in

order to generate a capital receipt as agreed by Cabinet at the meeting of 11 March 2013. It is proposed that this capital receipt, if offers are at the desired levels for the Council and in line with current valuations, is ringfenced to provide cross-subsidy for delivery of the Council-led housing programme.

- 2.24. It is also proposed that the capital receipt from the sale of the land at St George's Road in Wimbledon (currently being progressed) is also ring fenced to provide cross-subsidy for delivery of the Council-led housing programme.
- 2.25. The council is also working with Wandle Housing on the redevelopment of the Jan Malinowski centre on Riverside Drive which is expected to provide around 70 affordable units.
- 2.26. Also work is being progressed with Moat Housing for the development of Pollards Hill which could also provide around 90 homes.
- 2.27. Working with our Housing Association partners on these two sites also helps to create a balanced programme approach, and further manage its resources, risk exposure and funding requirements. It is presumed at this stage, although to be tested through discussions, that the affordable units from these sites would be owned and managed by our Housing Association partners, with 100% nomination rights to the Council.
- 2.28. The table provides indicative numbers of the affordable units achievable at each site, subject to further work, planning and viability.

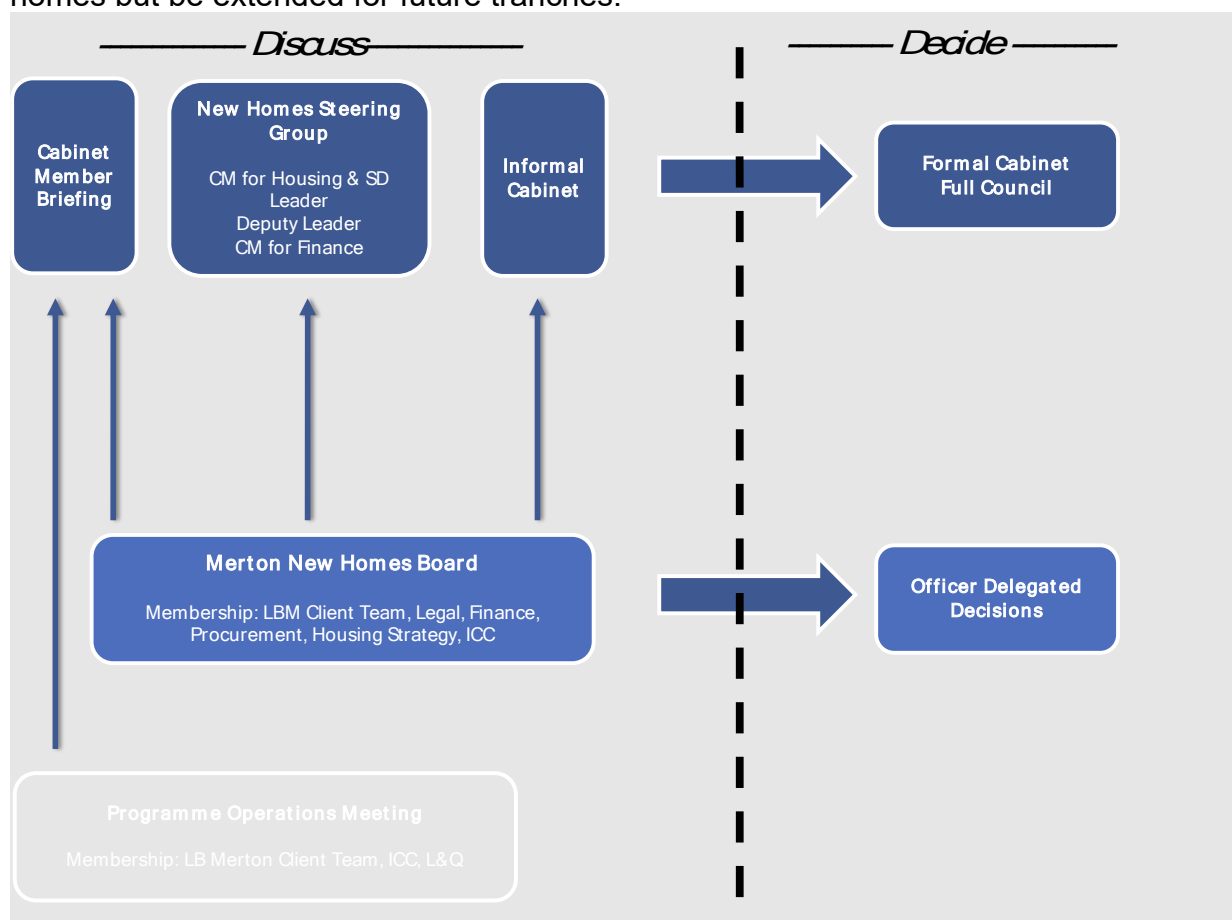
Site name	Indicative number of affordable homes
Chaucer Centre	65
Worsfold House	68
Gifford house	36
Battle Close	83
Pollards Hill	90
Riverside Drive	70
Tranche 0 (first 4 sites already underway)	93
Total	505

Governance and oversight of home building programme

- 2.29. The current development market is a challenging one, with increasing construction costs and decreasing sales values. However, the housing crisis in London is as acute as ever, with increasing numbers of families on the Council waiting list for affordable homes. The need for high quality, truly affordable homes is more vital than ever, especially as the private sector market in London is declining.
- 2.30. The Council is committed to doing all it can to help provide additional affordable homes for its residents. However, it has not built any Council stock for a generation. The Council is building its capacity and capability, and the partnership with L&Q is enabling skills and knowledge to be passed on to the small existing Council team. Construction programmes are

complex and often subject to unforeseen issues and delays, which can significantly add to costs.

- 2.31. To support the council in efficiently and effectively delivering this programme of new council homes, expert advice and additional capacity is being provided by Inner Circle Consulting (ICC). ICC will help the council client L&Q and manage the strategic programme of work within the Council while internal capacity is recruited and developed
- 2.32. To ensure the proper oversight of the programme, appropriate sign off at various gateways, tight risk management and effective management of resources (both financial and staffing), a governance structure is proposed to be put in place, as highlighted below. This will initially focus on the first 93 homes but be extended for future tranches.



- 2.33. Operationally, the LB Merton Client team will have a formal monthly meeting (Programme Operations meeting) with L&Q, supported by ICC. This meeting will focus on operational matters, including architecture, planning, construction as well as tracking performance and expenditure. The primary focus of this body will be the delivery of the first 93 homes across the four sites in tranche 0.
- 2.34. Strategic governance will be provided by the Merton New Homes Board. This will be chaired by the Executive Director for Housing and Sustainable Development and bring together internal council functions. This board will

discuss and minute any officer delegated decisions that are required to advance the strategic programme, as well as monitoring progress, risk and expenditure. L&Q and other strategic partners will be invited to attend as required but will not form part of the standing membership of this body.

- 2.35. The officer structure will feed into the political governance and oversight for the Cabinet. This is to be provided through two structured settings in addition to any informal meetings or briefings for the whole of the cabinet:
- i) The Cabinet Member for Housing and Sustainable Development will have a formal, minuted briefing once a month on progress against the programme, any risks and issues arising, and providing a forum to discuss any forthcoming operational matters on which the Cabinet Member's views or steer are sought.
 - ii) A New Homes Steering Group, chaired by the Cabinet Member for Housing and Sustainable Development, attended by the Leader, Deputy Leader and the Cabinet Member for Finance. This steering group will provide an opportunity for strategic input on the programme and any decisions on key sites with an impact on the wider programme. This group will also help officers shape any decisions that need to be brought to Cabinet or to Full Council for a formal decision. This meeting will be attended by officers to present updates and to note the outcome of discussions.

Update on 'tranche 0' – the first 93 units

- 2.36. Work is well underway on the first 93 units on four sites across Mitcham and Morden.
- 2.37. The four sites have been granted planning permission and design work is currently being undertaken to enhance the design of the homes to passive house standard (a level and quality of design specification and construction that minimises energy requirements and maximises the sustainability of the properties).
- 2.38. The council is working with L&Q and other specialist contractors to undertake the updates to the design as well as the project management of the procurement and delivery of the construction of the new homes.
- 2.39. A further paper will be brought to Cabinet in late 2023/early 2024 seeking approval to commence the construction of the 93 units, once tender prices are available.

3 ALTERNATIVE OPTIONS

- 3.1. Do nothing. This would not assist the council in its objective to achieve affordable homes or generate capital receipts.
- 3.2. Dispose of all sites. Whilst disposal of the assets would achieve a capital receipt and provision of affordable homes would be achieved through the planning process the council would not have direct control over the developments and the resulting properties would not contribute to the objective to regain council housing stock.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None for the purpose of this report

5 TIMETABLE

- 5.1. Design and viability work will commence on Worsfold House, Gifford House and the Chaucer Centre this financial year, subject to procurement of the appropriate professional team.
- 5.2. The soft market testing with the private sector on a partnership arrangement to deliver homes at the land at Battle Close is proposed to be undertaken in January 2024.
- 5.3. The land at 111-127 The Broadway will be brought to the market for disposal in spring 2024, subject to further advice on market conditions and timing.
- 5.4. A communications and engagement plan will be prepared for January 2024 to take account of the timetable of activities set out in paragraphs 5.1 to 5.3.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1 The financial implications of this report are quite extensive, they have been structured into four areas:
- General Fund – Revenue
 - General Fund – Capital
 - General Fund – Funding the Capital Programme
 - Establishing a Housing Revenue Account
- 6.2 General Fund Revenue - The Authority currently has £516k revenue funding to support the housing delivery programme and where appropriate costs will be charged to the capital programme. It should be recognised that if any schemes are not progressed their costs will need to be charged to revenue. It is currently envisaged that in the short-term revenue costs can be contained within existing budgets. In the medium to long term the Council will need to establish internal resources to support its ongoing housing and development aims. A growth bid is being prepared to address this as part of next year's revenue budget.
- 6.3 General Fund capital - The Council's current approved capital programme includes £29m for the development of tranche 0 schemes. Previous reports to Members had indicated that build cost inflation and changes to building regulation requirements / implications of seeking to achieve full Passive House standards would mean that this gross cost was likely to increase. Whilst this continues to be borne out in the latest estimates, indications are that the Council will also receive a higher level of grant funding than estimated. We are still working to develop the schemes to a position at which we can issue tenders but at this point the latest position is that these schemes could require an increase in the gross capital budget of £5m to £7m.
- 6.4 General Fund Funding the Capital Programme- The further recommendations in this report to continue development of Worsfold House,

Chaucer Centre, Gifford House, Battle Close and support of the affordable homes programme will also require new funding to be identified as part of the budget. Should these schemes be taken to development it is unlikely that sufficient internal funding would be available, so it is likely that external funding may need to be considered in the longer term for this programme.

- 6.5 In addition, the earmarking of capital receipts as proposed in recommendation E and G will mean that such receipts are not available to apply to the wider capital programme and the delivery of other council objectives. Officers are currently working with Members to reduce the capital programme to minimise/remove the need for internal/external borrowing, the funding of these schemes and their method of development will need to be considered with other competing schemes.
- 6.6 It is currently estimated that assuming the higher level of costs we currently have less the higher level of GLA grant Tranche 0 would currently require net £12.3m funding (final costings will only be clear once the schemes have been tendered early next year). This funding would either need to come from borrowing or from other internal resources.
- 6.7 Establishing a Housing Revenue Account (HRA) - A report was commissioned to look at the viability, timings and practical considerations of re-opening a Council Housing Revenue Account. In summary, this report notes that:
- The Council has powers under Part II of the Housing Act 1985 to provide council housing and re-open the HRA at any point, but must do so once it exceeds 199 homes.
 - Modelling work was carried out on the first four sites identified by officers as developable as new social housing, totalling 93 homes. The outcome of this modelling suggests that it is both possible and feasible to operate a small HRA based on the Council underpinning any early new build investment with direct financing (for example capital receipts) and building new homes which would not require significant investment in capital maintenance for many years.
 - Whilst the Council could supplement capital receipts with borrowing, the amount of borrowing would need to be limited so as to allow the HRA to build-up critical mass over time.
 - If an HRA is opened, as well as financing the development of new homes, the Council is likely to need to provide initial revenue funding to underpin the initial operating costs and overheads.
 - Operating a small HRA carries more risk than larger HRAs, partly due to the small amounts of income this produces and partly due to the relatively high internal overheads (as some services would need to be provided irrespective of the number of properties).
 - In particular, the Council is likely to need to rely on external partners/contractors for management and maintenance of any newly built stock, certainly in the early stages, and any associated risks would need to be carefully managed.
 - There are alternatives to the Council holding stock in the HRA which may be able to achieve similar outcomes in terms of delivery and control, especially if the stock holding is likely to remain small; such options include operating in the General Fund (up to 200 homes) and in a housing company.
 - If an HRA were to be opened it can be opened either immediately or once the Council exceeds 200 homes. There are advantages and disadvantages for each of these

approaches and the precise timing for reopening the HRA would presumably be an ongoing matter of judgement for officers.

- 6.8 The key requirement for the establishment of a HRA (S76 Local Government & Housing Act 1989) is that once established it should reach a break-even position as soon as possible. This is a position where it is self-financing and requires no additional capital or revenue funding from the General Fund (it is also termed "critical mass"). So whilst a smaller HRA in the region of 4-500 properties is sustainable in revenue terms, in order to be sustainable in both revenue and capital terms it is likely that this number would need to increase over time to around 1,000 properties.
- 6.9 Given the time required to build up the capability and capacity to deliver and administer an HRA, officers recommended that the Council does not consider reopening an HRA until after the first 93 have been delivered. This will give officers time to develop and resource the necessary policies, systems, skills and capacity such that the Council is in a position to be able to reopen the HRA at practical completion of the next tranche of Council homes, when all the homes delivered to date could be transferred into the HRA. Officers would also need to establish ongoing revenue and capital funding to subsidise the HRA until it reaches a break-even position.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Pursuant to the Housing Act 1985, a local housing authority has a duty to undertake periodical reviews of housing conditions in its area and the needs of the area with respect to the provision of further housing accommodation. The proposals set out in this paper relating to a combination of development and disposals to raise capital receipt is a means by which the Council could potentially make provision of further housing accommodation in its area.
- 7.2. The General Power of Competence pursuant to the Localism Act 2011 provides powers for the council to facilitate the economic, social and/or environmental betterment of their Borough through the delivery of improved facilities in addition to powers as a housing authority contained in the Housing Act 1985.
- 7.3. A council is empowered by the Local Authorities (Land) Act 1963 to erect any building and construct or carry out works on land for the benefit or improvement of their area although any proposals will be subject to concluding financial and legal due diligence which will include completing the closure of the car parks as ancillary matters to facilitate the development. [Officers have considered the supply of car parking in the vicinity of the relevant proposed sites and across the Borough as a whole and subject to concluding any statutory procedures for formal closure, it is not considered unreasonable for these closures to proceed based on need and usage as captured in surveys and reports. There will be a fresh consultation as part of the statutory procedure and any representations in response to it will need to be considered on their merits at the relevant time and the decision for closure cannot be made in advance.
- 7.4. The final terms of any disposal and development proposals will consider any need to comply with procurement legislation.

- 7.5. The Local Government Act 1972 empowers councils to dispose of land held by them in any manner they wish however, except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained. Should the Council decide to sell any of the sites at less than best consideration it would either need consent from the Secretary of State or the disposal would need to meet the criteria of the 2003 General Consent for Disposal of land which grants consent to disposal at less than best consideration provided the undervalue is less than £2 million and that the Council considers that the disposal will contribute to the social economic and environmental wellbeing of the area and in accordance with the annex to the consent. The Council would also need to have regard to state aid rules and its fiduciary duty.
- 7.6. This report sets out the rationale for the proposed development and perceived betterments of the Borough. Members should consider whether the benefits of the proposals set out in this report would outweigh any dis-benefits of leaving the area without any of the proposed improvements. Members are reminded, that as well as having regard to their fiduciary duty, that in coming to their decision they ensure that the decision is one which is rational in public law terms.
- 7.7. Where the Council as the land owner is seeking to secure planning consent for any proposed development on any of the sites mentioned in this report, the council will need to consider how best to accommodate any planning obligations and the power to approve any planning obligations imposed on the Council as land owner will need to be considered.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. An Equalities Impact assessment was carried out for the Local Plan, where a number of these site were highlighted for development. EIA's for tranche 1 and the following sites will be completed prior to disposal or planning applications being submitted.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purpose of this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

Risk	Consequence	Mitigation/Action
Increased costs, materials, and labour.	Increase in financial contribution required by council.	Close review and monitoring, Staged implementation strategy to reduce risk.

Decrease in land value	Reduction in capital receipt from disposals.	Assess market conditions, market testing before any disposal.
Staffing resource, potential impact on in house resource	Impact on delivery of other work and services	Ensure the Housing delivery strategy is adequately resourced with staff and that the necessary skills are procured.
Availability of Finance, market conditions	Detrimental effect on disposals and values.	Market testing, staged management of programme to spread risk.
Establishing an HRA	<p>Staffing/Resources to manage and maintain an HRA – must include IT systems</p> <p>Requirement to account for separately</p> <p>Will need to consider whether a separate or composite rate is used for Debt</p> <p>Operating a small HRA carries more risk than larger HRAs, partly due to the small amounts of income this produces, partly due to the relatively high internal overheads (as some services would need to be provided irrespective of the number of properties) -</p> <p>Achieving critical mass for efficient operation</p>	<p>Require sufficient lead in time to establish infrastructure</p> <p>Operating a small HRA the Authority will need to develop a management and maintenance agreement with an external provider.</p>

10.1. Table identifying keys risks is provided above.

10.2. Health & Safety Implications, none for the purpose of this report.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Confidential appendix – Savills asset review report (reserved from publication)
- Confidential appendix – Savills review into reopening a Council HRA (reserved from publication)

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