

**Report to the Council Housebuilding
Cabinet Committee**



**Epping Forest
District Council**

Report reference: CHB-015-2013/14

Date of meeting: 17 April 2014

Portfolio: Housing

**Subject: Funding an Accelerated Council Housebuilding Programme –
Report from CIH Consultancy**

Responsible Officer: Alan Hall, Director of Communities (01992 564004)

Democratic Services Officer: Jackie Leither (01992 564756)

Recommendations/Decisions Required:

(1) That the report from CIH Consultancy, attached as an appendix, on the options for funding an accelerated Council Housebuilding Programme and the associated implications be noted;

(2) That, subject to the Cabinet Committee's decision on the number of homes for which planning permission should be sought at Burton Road, Loughton for Phase 2 of the Housebuilding Committee, the following recommendations be made to the Cabinet:

(a) That the Council seeks to increase the number of affordable homes developed in Phases 3-6 from 20 to 30 per year;

(b) That HCA funding be sought, initially, for Phase 2 of the Housebuilding Programme at Burton Road, Loughton for either;

(i) 28 homes - based on a 42-home development; or

(ii) 40 homes - based on a 56-home development;

with the remaining homes in Phase 2 being funded from 1-4-1 Receipts and the other resources made available within the HRA as a result of the other recommendations within this report;

(c) That further bids for HCA funding be made in future years for future phases of the Housebuilding Programme, should the amount of 1-4-1 Receipts be less than forecast within the CIH Consultancy report, provided that the receipt of such HCA funding would not result in any 1-4-1 Receipts having to be passed to the Government;

(d) That, as a policy, the minimum balance held in the HRA be reduced from £3 million to £2 million;

(e) That the Council's HRA Self-Financing Reserve be re-profiled, to release funds for the Housebuilding Programme in earlier years of the HRA Business Plan by increasing contributions to the Reserve in later years (closer to the HRA's first PWLB loan maturing in 2021/22), whilst ensuring that sufficient

resources have been accumulated within the Reserve to repay this first loan on maturity (subject to no further borrowing being undertaken to extend the Housebuilding Programme, as referred to in Recommendation 2(g) below);

(f) That 30% of the Council's accruing HRA attributable debt balances be utilised to help fund the accelerated Housebuilding Programme;

(g) That the HRA's contribution to the Housing Improvements and Service Enhancements Fund between 2019/20 – 2021/22 (Years 7-9) be reduced by a sufficient amount to enable Phases 2-6 of the Housebuilding Programme to be funded (currently estimated at a reduction of £1.79 million - £2.42 million per annum, from £3.87 million per annum to £1.45 million - £2.08 million per annum), which will be dependent on:

- (i) The number of homes pursued for development under Phase 2;
- (ii) The outcome of the HCA funding bid;
- (iii) The amount of 1-4-1 Receipts received in 2014/15;
- (iv) The receipt of any further financial contributions received as a result of Section 106 Agreements;
- (v) Any property or land sales for which the Cabinet agrees the resultant receipt can be utilised to fund the Housebuilding Programme; and
- (vi) Any adjustments that have to be made to the amount allocated to the Fund in the intervening period, due to unforeseen and un-budgeted reasons affecting the HRA.

(h) That, in principle, the Council Housebuilding Programme be extended by a further 4 years to 10 years, after the current Years 3-6, with an additional 30 new affordable homes provided each year;

(i) That no decisions be made now on the most appropriate way of funding an extended Housebuilding Programme, but that consideration be given at an appropriate time in the future - and before any commitments are made or expenditure incurred; and

(j) That the purchase of properties from the open market and/or the provision of local authority grant(s) to one of the Council's Preferred Housing Association Partners to fund affordable housing schemes in need of grant, continue to be kept as a contingency plan, should the amount of 1-4-1 Receipts still be in excess of the maximum amount that can be spent on the Housebuilding Programme, in order to avoid having to pass any 1-4-1 Receipts to the Government, with interest;

(3) That, in accordance with its terms of appointment, the Council's Development Agent, East Thames, be asked to update the Council's Development Strategy, once the outcome of the Council's bid to the HCA is known, taking account of any decisions made to accelerate the Housebuilding Programme and other relevant decisions made by the Cabinet Committee and Cabinet since the time the current Development Strategy was produced; and

(4) That the outcome of any decisions to accelerate the Housebuilding Programme be included within the Council's HRA Financial Plan 2014/15, when it is reviewed and updated at the end of Quarter 1 of 2014/15.

Executive Summary:

At its last meeting, the Cabinet Committee requested a report to this meeting on how an accelerated Housebuilding Programme could be funded, and the associated implications. The Council's HRA Business Planning Consultant has produced a report on this issue, together with advice on the maximum amount for which HCA funding should be sought, in order to ensure that all 1-4-1 Receipts from Right to Buy sales are spent within the required 3 years of receipt and none are passed on to the Government, with interest.

Based on the information within CIH Consultancy's report, the recommendations set out at the commencement of this report have been formulated by the Director of Communities, most of which will require endorsement by the Cabinet.

Reasons for Proposed Decision:

A number of sites within the Council's ownership have been identified as being potentially suitable for Council housebuilding. The proposed number of new homes developed at Burton Road, Loughton is likely to be in excess of the numbers included within the HRA Business Plan. Furthermore, as a result of the current high number of Right to Buy (RTB) sales being completed, there is a risk that not all of the "1-4-1 Receipts" (i.e. those that can be spent on new housebuilding, to replace those lost due to the RTB) will be able to be spent within the required 3 years of receipt.

Moreover, the Cabinet Committee has indicated its wish for the Council to bid for funding from the HCA's forthcoming Affordable Homes Programme. In any event, the need for affordable housing continues to increase, whilst Council homes are also being sold through the Right to Buy, so an accelerated Housebuilding Programme would be welcomed.

Other Options for Action:

The main alternative options for action appear to be:

- (a) Not to accelerate or extend the Programme, or accelerate it at a different rate or extend it for a different period;
- (b) Not to seek HCA Investment Partner status or bid for HCA funding, or to bid for different number of homes or a different unit grant cost;
- (c) Not to re-profile the HRA Self-Financing Reserve;
- (d) Not to utilise 30% of the HRA attributable debt to help fund the Programme, or to utilise more or less of the attributable debt;
- (e) To reduce further the amount allocated by the HRA to the Housing Improvements and Service Enhancements Fund than proposed;
- (f) To borrow further loans from the PWLB, as an alternative to the proposed approaches for funding; and
- (g) Not to reduce the minimum HRA balances to less than £3 million.

Background

1. At its last meeting, the Cabinet Committee requested a report to this meeting on how an accelerated Housebuilding Programme could be funded, and the associated implications. This was for four main reasons:

- (a) The proposed development at Burton Road, Loughton agreed at the last meeting - as Phase 2 of the Council Housebuilding Programme - can accommodate more than the 20 new homes planned within the Council's current HRA Business Plan for Phase 2.

The Cabinet Committee asked officers to seek to increase the number of properties proposed for the development, from the 31-33 homes presented by officers at the last meeting. A separate report on the agenda regarding the development of Burton Road provides two alternative schemes – providing either 42 or 56 new homes.

- (b) As a result of the current high number of Right to Buy (RTB) sales being completed (53 sales in 2013/14, compared to the DCLG's expectations of 10 sales prior to the maximum discount being increased to £75,000), there is now a real risk that not all of the Council's "1-4-1 Receipts" (i.e. those that can be spent on new housebuilding, to replace those lost due to the RTB) will be able to be spent within the required 3 years of receipt, if the amount of housebuilding is not increased – since no more than 30% of development costs (works and fees) can be funded by 1-4-1 Receipts. This would mean that unspent 1-4-1 Receipts would need to be passed on to the Government, with interest (at a punitive rate), which the Council would want to avoid at all costs.

1-4-1 Receipts could be used to purchase properties from the open market, but separate funding would still be required to fund the other 70% of the purchase costs. Since the cost to the Council of purchasing properties from the open market is greater than developing on its own (free) land, it would be more economical to accelerate the Housebuilding Programme, than acquiring existing properties.

- (c) The Cabinet Committee has indicated its wish for the Council to lever-in additional external funding for its Housebuilding Programme, by applying for Investment Partner status with the Homes and Communities Agency (HCA) and bidding for funding from the HCA's forthcoming Affordable Homes Programme – for which bids have to be submitted by 30th April 2014. In view of the risk relating to the use of 1-4-1 Receipts referred to in (b) above, it is likely that HCA funding could only be used if the Housebuilding Programme was accelerated.

There is a separate report on the agenda relating to the proposed application for HCA Investment Partner status and the proposed submission bids for HCA funding.

- (d) In view of the continuing high need for affordable housing within the District, and the increasing loss of Council homes through the RTB, an accelerated Housebuilding Programme would be very welcome, if there is sufficient site capacity and it can be funded.

Accelerating the Housebuilding Programme

2. Accordingly, the Director of Communities has asked Simon Smith, the Council's HRA Business Planning Consultant from CIH Consultancy (who has advised the Council on its HRA business planning for many years) to provide a report on how an accelerated Housebuilding Programme could be funded, and the associated implications.

3. He was asked to base his report on the following:

- **Phase 1** - Comprising 23 homes (all of which now have planning permission)
- **Phase 2** – Increasing the number of homes from the currently-planned 20 homes to either 42 or 56 homes, based on the optional proposals being out forward by the Project Team to this meeting under a separate agenda item

- **Phases 3-6** – Increasing the number of homes from the currently-planned 20 homes per year to 30 homes per year
- **Phase 7-10** – Extending the Programme by a further 4 years, from the 6 years currently planned, with 30 additional new homes provided each year.

4. In addition, CIH Consultancy was also asked to advise on the maximum amount for which HCA funding should be sought, in order to supplement the use of 1-4-1 Receipts, whilst ensuring that all 1-4-1 Receipts are spent within the required 3 years of receipt and none are passed on to the Government, with interest.

5. It should be noted that all the costs referred to within CIH Consultancy's report are based on Level 3 of the Code for Sustainable Homes (CSH). At its last meeting, the Cabinet Committee requested a report to this meeting on the costs and implications of constructing new Council homes to the higher CSH Level 4. Since there is currently some uncertainty, nationally, over the future relationship between the new Part L of the Building Regulations (introduced from April 2014) and the CSH, it is intended to bring a report on this matter to a future meeting of the Cabinet Committee, once the future of the CSH is clearer. However, if the CSH continues, and if all new Council homes are constructed to CSH Level 4, it will increase the costs significantly over the remaining 5-9 year period of the Programme, which will require additional funding to that identified within the CIH Consultancy report and covered by the above recommendations.

6. CIH Consultancy's report on the funding and associated implications of an accelerated Housebuilding Programme is attached as an appendix. By its very nature, being a complex subject with many variables and options to consider, the report is quite lengthy and number-intensive - but CIH Consultancy has strived to produce a report that is easy to follow and understand, if read carefully. **Simon Smith from CIH Consultancy will be attending the Cabinet Committee to present his report in person, and to answer members' questions.**

7. Based on the detailed information within CIH Consultancy's report, the Director of Communities has formulated the recommendations set out at the commencement of this report for the Cabinet Committee's consideration. Since most of the recommendations are outside the purview of the Cabinet Committee, they will require endorsement by the Cabinet.

Open Market Purchases and Local Authority Grant Contingency Plan

8. When the Cabinet authorised the Director of Communities to enter into the 1-4-1 Receipts Agreement with the Department of Communities and Local Government (DCLG) in June 2012, knowing the potential risk that the 1-4-1 Receipts may not all be utilised within the required 3 years, the Cabinet agreed that, should it be subsequently identified that sufficient 1-4-1 Receipts will not be spent before they have to be passed to the DCLG, a report should be submitted to the Cabinet at the earliest opportunity to consider their alternative use allowed by the agreement. It was agreed that this should include the possible acquisition of new Council homes on the open market and/or the provision of local authority grant(s) to one of the Council's Preferred Housing Association Partners to fund affordable housing schemes in need of grant.

9. It is therefore suggested that such arrangements continue to be kept as a contingency plan, should the amount of 1-4-1 Receipts still be in excess of the maximum amount that can be spent on the Housebuilding Programme.

Development Strategy

10. In 2013, in accordance with its terms of appointment, the Council's Development Agent, East Thames, produced a Development Strategy for the Housebuilding Programme, which was adopted by the Cabinet.

11. It is a further requirement that East Thames updates the Development Strategy on an annual basis. It is therefore suggested that East Thames be asked to update the Development Strategy, once the outcome of the Council's bid to the HCA is known, taking account of any decisions made to accelerate the Housebuilding Programme and other relevant decisions made by the Cabinet Committee and Cabinet since the time the current Development Strategy was adopted.

HRA Financial Plan and Business Plan

12. It is a requirement that, for 2014/15, all of the Council's business plans are completed and signed-off by portfolio holders by 30th April 2014. The HRA Business Plan is always pre-scrutinised by both the Housing Scrutiny Panel and the Tenants and Leaseholders Federation, who are due to meet on 23rd and 24th April respectively.

13. Since the 30-Year HRA Financial Plan (also produced for the Council by CIH Consultancy) forms an important part of the HRA Business Plan, in order to meet this deadline – and since the Cabinet Committee's and Cabinet's decisions on possibly accelerating the Housebuilding Programme will not be known in time – it should be noted that it has been necessary to include an HRA Financial Plan within the HRA Business Plan 2014/15 that is based on the current Housebuilding Programme.

14. However, CIH Consultancy reviews and updates the HRA Financial Plan on a quarterly basis, so the outcome of any decisions on accelerating the Housebuilding Programme can be included within the Quarter 1 Update.

Resource Implications:

The financial resource implications are set out in detail within CIH Consultancy's report, attached as an Appendix.

The Housing Portfolio Holder has recently agreed to increase the amount of hours for the current part-time Housing Development Officer role. Part of the additional hours could be to be utilised to assist with an accelerated Programme.

Legal and Governance Implications:

The Cabinet Committee's Terms of Reference authorise it to oversee the delivery of the Housebuilding Programme, without the need to refer many decisions to the Cabinet. However, accelerating the Programme and increasing the required resources is outside of the Committee's Terms of Reference, so recommendations need to be made to the Cabinet for decision.

Safer, Cleaner and Greener Implications:

Most Council housebuilding will be on difficult-to-let garage sites, many of which are considered to be eyesores and attract fly-tipping and anti-social behaviour. Therefore, the development of more sites, more quickly, should result in them providing a safer, cleaner and more attractive environment.

All of the properties will be built to current Building Regulations, using modern materials, so they will be much more energy-efficient than existing Council homes.

Since all of the Council’s difficult-to-let garage sites are on previously developed (i.e. “brownfield” land), it is preferable to new developments having to be provided on Green Belt land.

Consultation Undertaken:

The Council’s Development Agent (East Thames), CIH Consultancy and the Council’s Management Board have been consulted on this report, and any comments received have been incorporated.

Background Papers:

None.

Impact Assessments:

Risk Management

The following are the key identified risks, together with the proposals for mitigation. In addition, it should be noted that East Thames’ consultants, Pellings LLP, maintain a Risk Register for the Programme, which is updated and reported to each meeting of the Cabinet Committee:

Risks	Mitigation
HCA funding is not received	<ul style="list-style-type: none"> • CIH Consultancy’s report explains the funding requirements for scenarios where both HCA funding is and is not received
1-4-1 Receipts may not all be utilised within the required 3 years, requiring them to be passed to the DCLG with interest.	<ul style="list-style-type: none"> • The CIH Consultancy Report assesses the likely 1-4-1 Receipts to be received in 2014/15, and bases its proposals to ensure that they are fully spent within the required timescale • If necessary, Phases 3 onwards could be brought forward to incur expenditure earlier • Cabinet has already agreed a Contingency Plan, requesting that a report be submitted to the Cabinet at the earliest opportunity to consider their alternative uses allowed by the DCLG Agreement, including the acquisition of new Council homes on the open market and/or the provision of local authority grant(s) to one of the Council’s Preferred Housing Association Partners to fund affordable housing schemes in need of grant.

<p>Other costs within the HRA increase, or income is less than expected, which materially and adversely affects the funding available for the Housebuilding Programme and the HRA generally.</p>	<ul style="list-style-type: none"> • The Housing Improvements and Service Enhancements Fund is already considered as a “balancing fund” within the HRA, able to increase and contract on an annual basis, dependent on how much the HRA can afford to contribute to the Fund. Even after accounting for an accelerated Housebuilding Programme, there are still significant amounts of resources forecast to be available to the Fund, which could be utilised to cover the effects on increased expenditure or reduced income • It is proposed that at least £3 million be maintained as the minimum amount of HRA Balances – this could be reduced to £2 million (or less if absolutely necessary).
<p>Contractual risks associated with a modest sized building programme</p>	<ul style="list-style-type: none"> • Ensure that the appointment of works contractors is robust • Ensure that the Council’s risks are minimised through the appropriate Standard Contracts, suitably amended • Only utilise contractors that are on East Thames Framework Contractors List, who have been selected following a robust appraisal process
<p>Significant budgetary overspends arise for construction works and/or fees</p>	<ul style="list-style-type: none"> • Ensure robust consideration of development appraisals in the first instance • Include sufficient provision for contingencies • Ensure effective project management arrangements, to include identification of potential overspends early • Effectively monitor actual and forecast costs and existing and future funding sources • Report to each meeting of the Cabinet Committee on progress/costs/funding.
<p>Development Agent does not perform to a satisfactory standard</p>	<ul style="list-style-type: none"> • The appointment of the Development Agent and its consultants properly assessed East Thames’ and Pellings LLP’s ability to provide a good standard • The Development Agent was appointed on the basis of price and quality

	<ul style="list-style-type: none"> • The Evaluation Criteria at both the PQQ and Tender Stage were comprehensive, with key factors weighted appropriately • The Development Agent and Pellings LLP have been required to have sufficient Professional Indemnity Insurance • Appropriate provisions have been included within the Development Agent's contract to deal with unsatisfactory performance, including the determination of the contract
Contracts with either the Development Agent or works contractors are terminated whilst projects/works are in progress	<ul style="list-style-type: none"> • Collateral warranties are in place with the Development Agent's consultants, to enable EFDC to appoint them direct if necessary • Collateral warranties will be required from works contractors' consultants, to enable EFDC to appoint them direct if necessary • The Development Agent and consultants have been required to have hold sufficient Professional Indemnity Insurance
Worked-up schemes do not receive planning permission, or have to be aborted for other reasons, incurring abortive costs	<ul style="list-style-type: none"> • Ensure involvement of planning officers at early stages and ongoing, to receive advice on the planning merits • Ensure development feasibility studies are sufficiently detailed and robust to identify potential site problems

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process?
N/A

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

N/A