

Economy and Growth Committee

Date of Meeting:	14 th March 2023
Report Title:	Notice of Motion: The Development of Council Housing
Report of:	Jayne Traverse – Executive Director - Place
Report Reference No:	EG/32/22-23
Ward(s) Affected:	All Wards

1. Purpose of Report

- 1.1. At the full Council Meeting of 14th December 2022, a notice of motion was proposed in relation to creating a Cheshire East Council housing revenue account and the development of a long-term strategy for the construction of high-quality, genuinely affordable council housing across the borough, underpinned by long-term secure tenancy agreements, with rents relative to the average wage of the geographical area. Thus, providing residents the security, health, education & social mobility opportunity that they deserve.
- 1.2. This report responds to that notice of motion.

2. Executive Summary

- 2.1 A Notice of Motion relating to the establishment of a Housing Revenue account and the development of a long-term strategy for the construction of council houses was proposed to Council at its meeting on 14th December 2022. The motion was proposed by Councillor C Naismith and seconded by Councillor A Critchley.
- 2.2 The motion proposed that the Council commits to:
 - 1) Creating a Cheshire East Council housing revenue account.
 - 2) The development of a long-term strategy for the construction of high-quality, genuinely affordable council housing across the borough, underpinned by long-term secure tenancy agreements, with rents relative to the average wage of the

geographical area. Thus, providing residents the security, health, education & social mobility opportunity that they deserve.

- 2.3 Council referred the motion, outlined in full at 6.1 to the Economy and Growth Committee.
- 2.4 Cheshire East Council is a non-stock holding Council. All Council housing were transferred by the former borough councils prior to the establishment of Cheshire East in 2009. Congleton Borough Council was the first transferring their housing stock in 1998 to Dane Housing (now the Plus Dane Group). Crewe and Nantwich followed in 2004, transferring their stock to Wulvern Housing (now part of the Guinness Partnership) and finally Macclesfield in 2006 to Peaks and Plains Housing.
- 2.5 Not only was the stock transferred, but so were all the associated services including housing management and repairs services. In addition, a lot of the support staff who dealt with the legal and financial services also took up employment with the new stock transfer organisations.
- 2.6 The proposal would require significant financial commitment and outlay in establishing and developing the housing required to form the Housing Revenue Account. The properties would require the Council to be responsible for the on-going management of all the properties, thus requiring internal staff, and potentially external support at a revenue cost.
- 2.7 The proposal does not form part of the Corporate Plan and is not within the current MTFS proposal and would therefore require additional capital and revenue funds outside of the MTFS programme.

3. Recommendations

- 3.1. Members are recommended to:
 - 3.1.1. Note the Notice of Motion
 - 3.1.2. That the Committee decide what action, if any, they wish to take in response to the Notice of Motion, taking into consideration the financial requirements to firstly develop a long-term strategy and then to construct and manage a portfolio of Council housing, both of which are not within the current MTFS and would place the Council under considerable financial pressure.

4. Reasons for Recommendations

- 4.1. The Cheshire East Council Constitution sets out the procedure for Notices of Motion submitted to Council. A motion referred to the relevant decision-making body must be considered within two meeting cycles. At the meeting to which the motion has been referred for consideration, the proposer of the motion if present shall be invited to speak first, followed by the seconder. The matter will then be opened up to wider discussion.

5. Other Options Considered

- 5.1. In May 2020 the former Cabinet received a report which outlined all the options to increase the supply of affordable housing and the rationale for why the Council should intervene, but also outlining the advantages and disadvantages for each option.

The options outlined included:

- Direct disposal to the market
 - The individual procurement of assets
 - The development of a Local Housing Company
 - The establishment of a Joint Venture
 - Establishment of a Cheshire East Council Housing Development Framework
 - Direct development through a Housing Revenue account or General Fund
- 5.2. After considering all the options, the decision was taken to establish a Housing Development Framework, which provides an opportunity for the Council to utilise some of its land assets for the development of mixed tenure housing sites, increasing the level of affordable housing over the 30% planning requirement and having the ability to stipulate the type of housing to be developed on the site.
- 5.3. The land is transferred to a Framework partner, who funds the development of the site. The Housing Services have commenced with mini competitions, having identified a small number of sites which have the potential to deliver housing. Feasibility work is being carried out to prepare the sites for the Framework.

6. Background

- 6.1. The full Notice of Motion proposed to Council was as follows:

We are in a cost-of-living crisis on top of a housing crisis. Thousands of people within Cheshire East are struggling with above inflation rent increases in the private sector, which hampers their ability to contribute to the local economy or to save to get on the housing ladder themselves.

Indeed, the Cheshire Homechoice waiting list is growing daily, with families in need having to wait years for an offer of accommodation, and the council having to resort to bed & breakfast accommodation to fulfil its legal duty to help homeless families.

The council recognises that access to high quality, genuinely affordable and decent housing is intrinsically linked to positive health, education and social mobility outcomes. Put simply: if you provide people with a safe, warm and

stable place to live they will be healthier and have more opportunity to get on in life.

While the council recognises that "affordable housing" is currently delivered within Cheshire East this is largely by private developers and registered housing providers.

The Government definition of "affordable" is limited because it is linked to market rent rather than local incomes. As such, often housing which meets the definition of "affordable" is not affordable to local people.

The Council notes the success of councils such as Salford, Trafford, Wandsworth and nearby Stoke-on-Trent currently delivering high quality council housing at council rents, below market levels and the positive impact this has had on the living standards of residents in those areas.

The council notes that it does not currently operate a Housing Revenue Account: a requirement of Authorities who wish to build-to-let their own housing stock.

Motion

This Council commits to:

- 1) Creating a Cheshire East Council housing revenue account.*
- 2) The development of a long-term strategy for the construction of high-quality, genuinely affordable council housing across the borough, underpinned by long-term secure tenancy agreements, with rents relative to the average wage of the geographical area. Thus, providing residents the security, health, education & social mobility opportunity that they deserve.*

6.2. The Council could reconsider developing Council Housing for all the reasons set out within the Notice of Motion. A Council can hold up to 199 homes outside of a Housing Revenue Account under Direction, so Councils that have previously transferred their stock to a housing association can borrow through the general fund to develop.

6.3. If the Council developed and acquired over 200 units then they would need to set up a Housing Revenue Account. This is separate to the Council's other budgets and operations (e.g., the General Fund) and income cannot be spent on other Council activities but is used to maintain existing housing stock and develop new provision. Councils do not need to have permission granted by the Secretary of State to open an HRA, however the Ministry of Housing,

Communities and Local Government requests a letter to the Secretary of State declaring the intention to open an HRA.

- 6.4.** If a Council already has stock held within an HRA, they have the ability to borrow in line with the Prudential code to fund the development of more homes, but they have to be able to cover the costs.
- 6.5.** There is a lot of financial regulation and requirements to establish a HRA including the development of a HRA Business Plan and the expertise within the Council is no longer available; therefore, staff would need to be employed to undertake these functions.
- 6.6.** Whilst there is a social and economic case for the development of Council houses as outlined in the Notice of Motion, Cheshire East Council would be starting from scratch, where we have no Housing Development staff, no Housing Management functions, and limited specialist services (legal/finance). There are other considerations to take into account before pursuing this further.
- 6.7. Other considerations:**
- 6.7.1. Land availability** – when we previously commissioned independent advice when considering options to bring forward affordable housing, we were advised that in order for certain options (Joint Venture, Housing Company) to be a viable option, a volume of land to enable the delivery of between 300 to 500 units would be required. It advised that it would also require the development of mixed tenure sites as the development of affordable rented provision in isolation would not provide the yields in order to make it financially viable to the market.
- 6.7.2.** Cheshire East is not the owner of significant land holdings. Our Strategic Land holdings form part of a wider investment strategy which is required to provide funding for improved infrastructure requirements and to supplement the Council's capital budget. Therefore, we only have smaller land holdings, which could be taken forward for the provision of affordable housing and these are currently identified for the Housing Development Framework (6 sites) Land acquisition may be required to achieve this ambition which would need financial investment to acquire it.
- 6.7.3. Financial requirements** - To fund the development or the purchase of homes will require significant investment.
- 6.7.4. Direct Development** – The preliminary works would have to be funded upfront including, feasibility, survey, design and planning. Consultants would have to be commissioned to undertake this activity as there are not the expertise within the Council to undertake all the requirements. If the Council failed to secure planning consent, then all costs would be abortive costs.

- 6.7.5. **Development costs** – Whilst the Council could apply to become a Registered Housing Provider with Homes England and apply for grant funding, not all costs are grant eligible and the grant will not cover 100% of all eligible development costs, so there will be a requirement to borrow funding to undertake any development. Development can take up to 2 years, before any rental income can be secured and therefore the Council would have to find the revenue to cover the borrowing costs.
- 6.7.6. **Purchase of properties** – The Council could acquire S106 units secured on development sites located across the local authority area. Homes England grant funding however cannot be applied for to purchase these, as they are a planning requirement and already subsidised. Therefore, the Council would have to borrow to fund the purchase costs.
- 6.7.7. Homes England grant funding could be applied for, in order to acquire properties off the open market, which are suitable for the use of providing affordable housing, subject to certain criteria, but again this would not cover the whole cost and borrowing would still be required.
- 6.7.8. By way of example to show the scale of capital investment, 50 properties in Crewe (at a 2022 average house price of £181,000) would cost £9.05M to acquire, and 50 properties in Macclesfield (at a 2022 average house price of £396,000) would cost £19.8M. If an average grant rate of £30,000 per unit could be secured there would still be a borrowing requirement of £25.85M to acquire 100 properties. At a borrowing rate of 4.74% there would be an annual revenue requirement of £1.671m to fund this level of borrowing, this includes a repayment towards the principal capital sum borrowed of £1.034m and an interest payment of £0.637m over a 25-year repayment period. Rental income would need to cover this as well as all other associated costs.
- 6.7.9. **Rent levels** – Rental levels would need to be set at a level which would provide enough revenue to cover all associated costs, including borrowing, maintenance and repairs, voids and housing management services or they would place considerable pressure on the Council's revenue budgets. Whilst Councils can determine their own rent levels, they must take account of Government guidance and the Rent Standard as set by the regulator of social housing when setting rents. Financial viability would need to be established before any decision is taken forward.
- 6.7.10. **Requirement to employ staff** – As outlined previously, to undertake any development activity would require specialist staff and the commissioning of studies. There would also be the requirement for legal and finance resources. Once the properties are developed there is the housing management functions and repairs and maintenance. Whilst these services could be externally commissioned there is a cost.

- 6.7.11. **Right to buy** - A secure tenant in the majority of cases has the right to buy their council house at a discounted price and any housing developed or purchase by Cheshire East Council would be subject to Right to Buy.

A tenant who has had a public sector landlord for 3 years (does not have to be consecutive years) has the ability to apply for the right to buy. The current Right to Buy (RTB) rules mean that proceeds and the use of them are governed by Government.

- 6.7.12. **Changes in regulations** – There is always the possibility that there could be further regulation or changes and any changes could have a positive or negative impact on the Council. There have been many changes over the years, some of which contributed to Council's taking the decision to transfer their housing stock, changes in right to buy and the lifting of the borrowing cap.

7. Implications

7.1. Legal

- 7.1.1. A Council can develop up to 199 homes without opening up a Housing Revenue Account (HRA) using the General Fund but must write to the Secretary of State for a direction to allow the Council to build homes outside the HRA.
- 7.1.2. A Housing Revenue Account is required to be opened by a Council if they own over 200 or more dwellings. A HRA is a landlord account, recording expenditure and income arising from the provision of housing accommodation by local housing authorities (under the powers and duties conferred on them in Part II of the Housing Act 1985 and certain provisions of earlier legislation)
- 7.1.3 A Council does not need to have permission granted by the Secretary of State to open an HRA, however the Ministry of Housing, Communities and Local Government requests a letter to the Secretary of State declaring the intention to open an HRA. On receipt of the direction, the Council can borrow prudentially to fund the development of further homes.
- 7.1.4 A Council has a responsibility to manage the properties it owns; however, it can elect to agree that another organisation can carry out this function under a Management Agreement. However, the primary responsibility for liability for repairs and ensuring houses are fit for human habitation remains with the Council regardless of any indemnity a Management Agreement contains. It follows that damages arising from a failure to repair or ensure fitness for human habitation will rest with the Council and be subject to any indemnity under the Management Agreement.

7.1.5 A tenant who has a secure tenancy has the ability to apply for the Right to buy their home at a discount, which is determined by the type of property (house or flat) and their length of residency, up to a maximum of 70% or £87,200. The scheme is governed by the Housing Act 1985. Councils are expected to support their tenants through this process.

7.2. Finance

7.2.1. Cheshire East Council do not currently operate a HRA and the establishment of one would require additional resources to ensure that it is managed in accordance with the legislation. It is not a separate fund but a ring-fenced account of certain defined transactions, relating to local authority housing, within the General Fund. Expenditure and income relating to property listed in section 74 of the Local Government and Housing Act 1989 (“the 1989 Act”) must be accounted for in the HRA. This comprises mostly housing and other property provided by authorities under Part II of the Housing Act 1985 (“the 1985 Act”).

7.2.2. Schedule 4 to the 1989 Act (as amended by section 127 of the Leasehold Reform, Housing and Urban Development Act 1993) specifies the debit and credit items to be recorded in the HRA. The Housing (Welfare Services) Order 1994 specifies the welfare services which must be accounted for outside the HRA.

7.2.3. A Council can borrow prudentially within the General Fund to develop up to 199 homes and once this number is exceeded then a HRA must be opened and all further borrowing must be under the HRA and in line with the Prudential Code.

7.2.4. In order to determine the financial liability, the Council would be placed under then there would be a need to commission a robust feasibility/viability study. A study into the feasibility of a Housing Company was commissioned in 2016 at a cost of £21,000 and therefore it is estimated that a revenue budget in the region of £30,000 to £40,000 would need to be identified. A cost which is not currently accounted for within the MTFS and cannot be covered within existing Housing budgets.

7.2.5. Whilst there are grants available for the development of new homes, these do not cover 100% of the cost and therefore there would be considerable borrowing required to develop new homes, which would place pressure on the Council’s revenue budget in order to cover the borrowing costs. Until the properties were developed and receiving an income then this borrowing cost would have to be covered by the Council, placing further financial pressure on the Council.

7.3. Policy

7.3.1. The establishment of a HRA or the development of Council has not been specifically identified within the Corporate Plan and MTFS.

7.4. Equality

- 7.4.1. The development of Council houses, provides residents with another route to social housing, as determined by the Cheshire East Common Allocations Policy, which sets out the criteria for the allocation of social housing. An Equality Impact Assessment has been completed for the existing Cheshire East Common Allocations Policy and will be required for any subsequent versions.

7.5. Human Resources

- 7.5.1. As articulated through this report, there would be a significant requirement for additional staff to develop and manage a portfolio of Council owned and managed properties. The level of staff would need to be established through the feasibility/viability study.

7.6. Risk Management

- 7.6.1. The main risk to the establishment of Council houses is the cost, none of which has been accounted for within the current MTFS and it would place the Council under considerable financial pressure. The commissioning of a feasibility/viability study would provide further clarification, but again would place a financial pressure of up to £40,000 on the Council which has not been accounted for.

7.7. Rural Communities

- 7.7.1. There are no direct implications for rural areas, the need for social housing is borough wide, however previous experience has demonstrated that development in rural areas can be difficult due to planning restrictions.

7.8. Children and Young People/Cared for Children

- 7.8.1. Poor housing can have a negative impact on our children's wellbeing. Increasing affordable housing provision, through the development of new houses can ensure that families have access to appropriate housing options and reduces the risk of having to reside in temporary accommodation.

7.9. Public Health

- 7.9.1. Health is determined by a complex interaction between individual characteristics, lifestyle and the physical, social and economic environment. Access to a decent, safe home is key to physical and mental health and wellbeing.
- 7.9.2. The lack of appropriate, affordable housing can contribute to increased levels of homelessness, which is strongly associated with poor health and wellbeing. People experiencing homelessness are significantly more likely to experience mental and physical health problems, compounded by the fact that homelessness makes it more difficult to access health services.

The impacts of homelessness on children can be particularly traumatic and long-lasting and can severely affect life chances through adverse effects on their development, education and health. Any policy that prevents homelessness wherever possible is a valuable public health intervention.

7.9.3. The Notice of Motion referenced the development of a long-term strategy for the construction of high-quality, genuinely affordable housing, and referred to ensuring long-term secure tenancy agreements with rents based on prices relative to the average wages of geographical areas. In the current Cost of Living Crisis, the need for affordable housing is even more pressing.

7.10. Climate Change

7.10.1. The Council has committed to becoming carbon neutral by 2025 and to encourage all businesses, residents, and organisations in Cheshire East to reduce their carbon footprint.

7.10.2. Building sustainability would have to be a requirement within the specification and design of any future homes in order to keep the energy costs to a minimum for tenants.

Access to Information	
Contact Officer:	Karen Carsberg – Head of Housing Karen.carsberg@cheshireeast.gov.uk 07710975438
Appendices:	N/A
Background Papers:	N/A