

Dear Councillor

CABINET - WEDNESDAY, 8TH SEPTEMBER, 2021

I am now able to enclose, for consideration at the meeting of Cabinet on Wednesday, 8th September 2021, the following report that was unavailable when the agenda was printed.

Agenda No Item

- | | |
|---|---|
| 8 | Help to Own Scheme Update and Governance (Pages 3 - 12)
[To receive an update on the Help to Own scheme and on a proposed governance structure and approvals process] |
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If you have any queries about this meeting, please contact the democratic support team:

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CITY OF WOLVERHAMPTON COUNCIL	Cabinet 8 September 2021
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Report title	Help to Own Scheme Update and Governance	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Bhupinder Gakhral City Assets and Housing	Councillor Ian Brookfield Leader of the Council
Key decision	Yes	
In forward plan	No	
Wards affected	All wards	
Accountable Director	Claire Nye, Director of Finance David Pattison, Chief Operating Officer	
Originating service	Finance and Governance	
Accountable employee	Nick Alderman Tel Email	Finance Business Partner Nick.Alderman2@Wolverhampton.gov.uk
Report to be/has been considered by		

Recommendations for decision:

The Cabinet is recommended to approve:

1. The governance structure and approvals process identified in the report. Key decisions, as listed, will be reported to Cabinet for approval. Other operational decisions as noted are delegated to the Director of Finance and the Chief Operating Officer acting on behalf of the Council as a member of the Help to Own partnerships, and otherwise to the appointees to the scheme Management Board.
2. The minor amendments to correct and clarify certain of the transaction documents signed on 16 April 2021 to establish the scheme and delegation to the Director of Finance and Chief Operating Officer of authority to approve on behalf of the Council as a member of HTO2 LLP.

Recommendations for noting:

The Cabinet is asked to note that:

1. This is the first six monthly update on the scheme and shows a strong initial performance with 352 applications for the 100 houses. Of these 70 have been approved to date, 50.% from key workers and 61% from Wolverhampton residents.
2. The first 23 houses are expected to be delivered and occupied in September with the balance delivered in tranches over the following 6 months. Loans will be drawn down from the facility with the West Midlands Pension Fund (WMPF) to fund the purchase of each tranche.

1.0 Purpose

- 1.1 The purpose of this report is to provide an updated on the progress of the Help to Own scheme and submit a proposed governance structure and approvals process.

2.0 Background

- 2.1 Help to Own (“HtO”) is a proposed new affordable housing product developed by Frontier Development Capital (“FDC”) which provides a rental solution to local residents that gives long-term tenure security, the benefits of home ownership without the risks and complete flexibility to leave whenever the tenant wishes.
- 2.2 Under HtO, the customer pays a market rent for 25 years for the home and after that period they can purchase it for £1. The annual increases in rent are set aside into a loyalty account, which is built up over the 25 years and the customer is able to withdraw this pot at any time if they exit the property. If customers stay for the full 25 years then at the end of the period the scheme has access to their loyalty account pot. Customers can also use their loyalty account to help with a deposit to purchase the property they occupy at any point during their tenancy. Any disposal during the 25 years results is a capital receipt to the scheme.
- 2.3 The Council approved on 19 March 2021 an equity investment of up to £5.7 million alongside a West Midlands Combined Authority (“WMCA”) investment of up to £4.78 million into a special purpose vehicle (“SPV”) to establish the HtO scheme and purchase 100 house at The Marches development from WV Living. Subsequently, on 16 April 2021, two Limited Liability Partnerships (“LLPs”), HTO1 LLP and HTO2 LLP, were incorporated, equity investments made by both parties and the initial purchase of land and development works at The Marches to date completed.
- 2.4 The 100 houses for the scheme are to be delivered by WV Living in tranches through to completion of the site planned for March 2022. Additional funding for the purchase of the completed properties is being provided via a £12.9 million loan facility from the West Midlands Pension Fund (“WMPF”) which will be drawn down in stages to meet the purchase cost of each tranche.
- 2.5 The scheme administrator MGAM Ltd, a subsidiary of FDC, and the scheme property manager, Wolverhampton Homes, manage the day to day operation of the scheme including sales and marketing, the applications and allocations process, property management and financial management and accounting.

3.0 Performance and Finances

- 3.1 The initial equity investment into the scheme of £5.7 million was made in April 2021. This, together with the equity investment of £4.55 million from the WMCA, was used to fund the purchase of land and development from WV Living (£7.9 million) plus start up and advice costs (£1.25 million). The remaining cash balance of £1.1 million, together

with loans from the WMPF facility, will be used to fund the balance of the purchase price of completed properties.

- 3.2 All costs and payments to date have been in line with those in the approved financial model. Initial rental levels are also in line with the financial model and the scheme is currently forecast to achieve its financial objectives of a small positive return to the council over the 25 year period.
- 3.3 Help to Own has been marketed since May 2021 and has attracted a high level of interest. There have been 2,134 expressions of interest in the scheme, which have resulted in 352 applications to date.
- 3.4 All applications go through a rigorous credit check and affordability test undertaken by the scheme property manager, Wolverhampton Homes. This has resulted in 70 accepted and 253 declined applications to date with 29 still pending. Accepted allocations received within before the first deadline have been offered properties based on the agreed allocations policy which prioritises key workers and local residents.
- 3.5 The first 23 properties are scheduled to be completed at the end of September and have all been let, subject to completion of legal tenancy agreements. A panel of three local solicitors has been established to provide necessary legal advice to tenants and assist in completion of the documentation. Full completion of the development is planned for March 2022.
- 3.6 During the finalisation of the legal tenancy packs a number of minor discrepancies in some of the legal documentation prepared for the establishment of the scheme were identified. It is proposed to correct these as part of the legal process for drawdown of the first tranche of the loan from WMPF. The documents in question are:
- Allocation policy: to update to final agreed policy as attached at Appendix 2
 - TP1: amend land registry transfer to match to market plot sales
 - Estate rentcharge deed: amend for compliance with current mortgage market requirements.
- 3.7 The variations to the documents above have been drafted by HtO scheme external legal advisors and approved by the Council's legal service. It is recommended that Cabinet approve variation of the documents listed above and delegate authority to the Director of Finance and the Director of Governance and to approve the changes and authorise signatures as necessary.

4.0 Governance

- 4.1 The HtO scheme has been established in partnership with the WMCA via two LLP's, HTO1 and HTO2, which are governed by a master LLP agreement. This agreement regulates the responsibilities and dealings of CWC and WMCA as members, identifies

those decisions that must be taken by the members with unanimous consent and establishes a Management Board to which all other decisions are delegated.

- 4.2 The matters requiring unanimous consent are attached at Appendix 1. These are significant decisions that could significantly affect the nature and performance of the scheme together with items that would typically require shareholder approval for a limited company. It is recommended that, with the exception of items 1.1.14 to 1.1.18, all these matters are reported to Cabinet for approval as and when necessary.
- 4.3 Items 1.1.14 to 1.1.18 are more operational and administrative items and it is proposed to delegate authority to the Director and Finance and the Chief Operating Officer to approve decisions on these items on behalf of the council.
- 4.4 All other decisions related to the day to day running of the HtO business are delegated by the master LLP agreement to a Management Board which consists of two representatives from each of the WMCA and CWC. Management Board members are permitted to delegate authority and voting at meetings to other colleagues as necessary or appropriate.
- 4.5 At the time of completion of the transaction the Head of Legal Services and the Director of City Housing and Environment were appointed in order to provide appropriate expertise and oversight. The WMCA representatives are Ian Martin (Investment and Commercial Activities Director) and Carl Pearson (Head of Financial Planning).
- 4.6 Management and oversight of the scheme is proposed as follows:
- Management Board meetings monthly – report to Strategic Executive Board (SEB) on an exceptions basis
 - LLP Members meetings quarterly – report to SEB
 - Update Report to Cabinet – six monthly

Cabinet is recommended to approve the above meeting and reporting schedule for oversight of the scheme.

5.0 Evaluation of alternative options

- 5.1 A range of alternative options have been considered however the appointees to the Management Board and governance structure proposed is considered to offer the most effective and efficient oversight of the scheme.

6.0 Reasons for decision

- 6.1 The proposal ensures proper management control and governance of the HtO scheme. The amendments to legal documentation ensure all contracts are correctly drawn up.

7.0 Financial implications

- 7.1 The financial implications are detailed in the body of the report. The performance of the scheme remains in line with the approved financial model.
[CN/25082021/C]

8.0 Legal implications

- 8.1 The proposal involves the variation of existing legal contracts. These are minor amendments to bring documentation in line with the latest requirements. All have been reviewed and approved by the council's legal service.
- 8.2 In addition advice has been sought from Anthony Collins solicitors on the details of the variations to the legal documentation.
[DP/25082021/A]

9.0 Equalities implications

- 9.1 There are no equalities implications arising from this report

10.0 All other implications

- 10.1 The Marches is being developed by WV Living which is committed to ensuring its new homes are energy efficient and support national and local efforts to reduce the production of greenhouse gases.
- 10.2 There are no immediate corporate landlord implications. It is possible that future expansion of the scheme may include the acquisition and development of land currently owned by the Council. The sale of land will generate capital receipts for the Council.
- 10.3 By providing high quality attractive homes for sale and market rent, the project will, over the longer term, improve the quality of new homes in all areas of the City including areas with lower housing market values.
- 10.4 Improvement to the quality of housing in the City will contribute to increased health and wellbeing.
- 10.5 Under the latest Covid 19 emergency measures which came into force on 6th January 2021 house building, sales and rental activities are allowed to continue. It is not anticipated that this will change and therefore there is not likely to be any future impact on the project.

11.0 Schedule of background papers

- 11.1 Cabinet 21 January 2021 – The Marches Help to Own Project

12.0 Appendices

- 12.1 Appendix 1 – Decisions requiring approval by Cabinet
- 12.2 Appendix 2 – Allocations Policy

Appendix 1

1. MATTERS REQUIRING UNANIMOUS CONSENT

1.1 Exercise of rights

The Members and HTO2 Members shall exercise all rights and powers available to them in relation to HTO1 and HTO2 so as to procure (insofar as they are able to by the exercise of such rights) that neither HTO1 nor HTO2 shall without Unanimous Consent: -

- 1.1.1 appoint or replace MG Asset Management Limited as administrative services provider or Wolverhampton Homes as property manager;
- 1.1.2 terminate, vary or amend any term of any Transaction Document (including by replacing the contracting parties thereto) or amend the Financial Model;
- 1.1.3 sell the Business or the HTO2 Business (whether by a single transaction or a series of transactions);
- 1.1.4 make any change to the Business or the HTO2 Business or make any decision, enter into any contract or take any action outside the Business or the HTO2 Business;
- 1.1.5 incur any borrowings;
- 1.1.6 make any payment on account of Profit;
- 1.1.7 create any mortgage or charge (whether fixed or floating) or any other encumbrance of a similar nature over the assets or undertaking of HTO1 or HTO2 or any part thereof;
- 1.1.8 make any payment of fees to the Members or any of their Associates in their capacity as members of HTO1 or HTO2 (as applicable) (other than reimbursement of expenses reasonably and properly incurred);
- 1.1.9 increase or in any way reorganise any part of the capital of HTO1 or HTO2 or incorporate any new member of the HTO Group;
- 1.1.10 make or enter into any loans, guarantee, indemnities or security for the due payment of money or the performance of any contract or obligation by any other person, other than a member of the HTO Group;
- 1.1.11 enter into any transaction, contract or engagement, including a transaction, contract or engagement between HTO1, HTO2 and any of their Members or any of their Associates;
- 1.1.12 commence any legal, arbitration, insolvency, liquidation or administration proceedings (other than routine debt collection);
- 1.1.13 permit a Member to withdraw any Capital or permit any Member to withdraw member capital from HTO2;
- 1.1.14 make any change to the Accounts Date;
- 1.1.15 make any amendment or variation to this Agreement;
- 1.1.16 appoint auditors or bankers to the HTO Group;
- 1.1.17 confer authority on any person or persons to operate any bank account of HTO1;

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[NOT PROTECTIVELY MARKED]

- 1.1.18 pay interest on any Capital Contribution or any amount loaned by a Member to HTO1;
- 1.1.19 admit any person (other than the Initial Members) as a Member or as a Member of HTO2, save in each case in accordance with **Error! Reference source not found.** or Clause **Error! Reference source not found.**;
- 1.1.20 change its name;
- 1.1.21 acquire (by purchase, subscription or otherwise) any shares, stock or other interest in or debentures, charges or securities of any person;
- 1.1.22 enter into any partnership, joint venture or consortium; or
- 1.1.23 save where matters have been delegated under the terms of the Administrative Services Agreement (as amended, varied or restated from time to time) -
 - (a) incur any capital expenditure (whether by a single transaction or a series of transactions); or
 - (b) enter into or allow to be entered into, any contract or transaction which could involve expenditure,

in each case in excess of the amount set out in the Financial Model as updated and agreed by the Members from time to time.

1.2 **HTO Group**

The expression HTO1 where it is used in this Clause 1 shall be deemed to include any member of the HTO Group, including but not limited to HTO2, to the intent and effect that the provisions of this Clause 1 shall apply in relation to HTO2 and each such member of the HTO Group as they apply in relation to HTO1.

Appendix 2

Allocations Policy

Occupational Leases are to be allocated to tenants who satisfy all the eligibility criteria in order of the allocation priority:

Eligibility Criteria

1. Meet the affordability test of monthly rent being a target of no more than 45% of net monthly household income
2. Not already own a house
3. Not have the cash available for a 10% mortgage deposit
4. Pass all credit checks

Allocation Priority

1. Prospective tenants who are resident in the local ward (Wednesfield) in which the property lies and a key worker*;
2. Prospective tenants who are resident in the local ward in which the property lies;
3. Prospective tenants who are resident in the local council (CWC) area in which the property lies and a key worker;
4. Prospective tenants who are resident in the local council area in which the property lies;
5. Prospective tenants who do not have cash or savings that exceed 10% of the property they wish to rent;
6. Prospective tenants who are a key worker;
7. Prospective tenants who are workers in the local council area in which the property lies;
8. Prospective tenants who are West Midlands residents;
9. Prospective tenants who are National.

In the event that there is insufficient uptake from tenants in the categories above for the Project to be successful, the Borrower shall be permitted to let any vacant Units on a private rented sector basis to enable it to service the Facility, provided it has given the Lender prior written notice.

*Key worker as defined by Capital Funding Guidance on the Key Worker definition

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