

Housing & New Homes Committee – Wednesday 16th November
Agenda Item 40 – Housing Delivery Options – Living Wage Joint
Venture

Conservative Group Amendment

That the recommendations on page 62 of the agenda be amended as follows:

2. RECOMMENDATIONS:

2.1 That Housing & New Homes Committee:

- i) Recommends the report to Policy, Resources & Growth Committee as **set out at paragraph 2.2 subject to the following safeguards being put in place to protect the Council:**
- a) **That prior to the signing of any Heads of Terms agreement or other legally binding agreement to form this Joint Venture, Housing and New Homes Committee, Policy, Resources and Growth Committee and Full Council must ratify such a decision, with all members receiving the external advice sought including but not restricted to that from **Queen’s Counsel** on reverse Teckal, VAT and corporation tax liability and the likely outcome should a court conclude that the LLP would breach the requirement to use a company where something is done for commercial purposes as set out in the legal advice. As well as but not exclusively providing members with the ‘Independent financial/treasury management advice that will be sought as part of further due diligence review to ensure financial risk exposure to the council is kept to a minimum’ as outlined in the report.**

Officer Comments

The advice is that the proposed approach is compliant with legal requirements. Given a level of uncertainty over the question of whether the Council can directly participate in the LLP and the importance of this question an opinion has been obtained from Nigel Giffin QC. This confirms that the Council has two sources of authority to proceed – the Localism Act 2011 (General Power of Competence) and s12 (a) Local Government Act 2003.

The Council's legal advisers will continue to advise on these areas as the project develops, taking into account the opinion received from Leading Counsel on participation in an LLP.

Finance analysis (Part 2) includes an indication of risk if the council were to enter into LLP through its own trading subsidiary company.

Under the existing proposals the Council will delegate authority to senior officers to agree the final Heads of Terms in light of all advice received and

execute all documents necessary to implement the joint venture. Members would retain oversight via the cross party Estate Regeneration Board and Strategic Delivery Board.

The appointment of members to outside bodies is determined by full Council on an annual basis. Approval is required from Policy, Resources & Growth Committee to release funding for individual schemes.

- b) That the appointments from the Council to the management board, shall include as the councils three members of the board, the chair of the housing and new homes committee, the opposition spokesperson of the housing and new homes committee and the minority groups spokesperson of the housing and new homes committee. Such positions should be capable of being substituted for by other members, and relevant council officers may attend purely in an advisory capacity to assist members. The Chair of the Board should also be the chair of the committee, who will hold a casting vote: in perpetuity. Final details of this officer advisors list, should come back to a future Housing and New Homes Committee for final approval, with any future changes to be agreed by later meetings of a committee which holds the same housing functions as this current committee.**

Officer Comments

Bevan Brittan have advised about the potential for there to be conflicts of interest between Council officers or members appointed as directors of the joint venture vehicle, and whether to appoint officers or members and the identity of those appointed is a decision for the Council, based on its preferences. The likelihood of conflict could be higher if H&NH committee members were appointed, particularly if the chair of the Housing and New Homes Committee is chair of the board.

Although the Council and Hyde have agreed that a chair of the board will be appointed, it is intended that this will be done annually by the Council and Hyde in turn and that the chair will not have a casting vote. There has been no agreement requiring the Council to obtain committee approval for identified officers who will attend board meetings and advise members appointed as directors.

Having a chair with a casting vote would not fit with the 50:50 joint venture principle that has been a fundamental principle from the outset, and is unlikely to be agreeable.

Hyde are unlikely to be concerned about how the Council decides which officers can attend board meetings as long as it does not impact on the board's ability to make decisions.

It is proposed that the amendment regarding officer list approval by Housing and New Homes Committee is not accepted as this is an operational matter

that should properly be determined by the Head of Paid Service, having regard to the resources, skills and experience of his officers.

- c) That no HRA asset will be transferred or sold into the Joint Venture and this shall be written into the Heads of Terms, or equivalent legal agreement or final contracts.**

Officer Comments

This amendment can be accepted.

- d) That the HRA will have first refusal of any General Fund land being sold to the Joint Venture, with member oversight of this being considered for any sum above and including zero pence at the Estate Regeneration Board.**

Officer Comments

The council will review options for all sites before they are proposed for disposal to the Joint Venture. This can include a review of potential options for the council to develop the site directly (for example through the wholly owned Housing Company). This would need to happen at the start of the proposed disposal process i.e. before any feasibility or viability work has been undertaken by the JV. To do so later would cause concerns as it could create a situation whereby the JV is being used to set the price for Council land for another party to step in (even if this is the Council itself). There is cost and risk in the JV carrying out work to assess land and produce feasibility work; it would therefore be unreasonable the Council to act in this way.

Please see para 3.35 in the body of the report and FAQ34. The HRA doesn't currently have the borrowing capacity, due to the HRA debt cap imposed following self financing in 2012, for large scale development proposed in the in this project.

- e) That a short 30 day Prior Information Notice be issued to ascertain, and this should be clearly set out in the OJEU Council Documents, whether another registered provider believes their frameworks could provide better value for money for the Council's significant investment than Hyde's: **whilst clearly stating the Council has no legal compulsion to procure in this instance, and if responses to the PIN are received this is not binding for a full procurement process to be gone through.** The results of which should be brought back to a future Housing and New Homes committee meeting, for the committee to assess whether a full procurement process, if any registered provided responds positively to the Prior Information Notice, should be undertaken in the interest of value for**

money. The Procurement Advisory Board prior to the results coming to committee should also consider the results, and make recommendations which will be included in the report back to this committee..

Officer Comments

It is not clear from the proposed amendment what contract the proposed use of the PIN relates to and therefore two scenarios are outlined below.

There is no requirement to issue a PIN if this is proposed in relation to the investment with Hyde and it should be noted that Hyde has raised serious concerns about this proposal. If it were something the Council opt to pursue, Hyde have indicated that they will have to seriously consider their position in progressing the joint venture with the council.

The use of a PIN would also add to the timetable for procuring the relevant goods, works or services, particularly if the results have to be brought back to the relevant Committees for approval and if it was a precursor to a full procurement process. The council would also need to carefully review and consider any speculative approaches from RPs who have no connection or development track record in the City.

In terms of the works and professional services contracts that will be required to build the homes, Hyde's framework agreements were established under EU procurement rules (as outlined in the main body of the report). The Council and Hyde have therefore agreed not to use a PIN as Hyde's framework has already been through a procurement process with value for money tested. An independent project monitor will also be appointed who will be required to monitor value for money on each development, for example by certifying development costs before they can be incurred. In addition the joint venture will run mini-tenders between suppliers on the Hyde frameworks. This is a common approach and provides a further test of value for money.

- f) Further financial modelling should be undertaken and reported back to a future meeting of this committee for approval, as well as Policy Resources and Growth Committee and Full Council. This financial modelling should include SFVM and NPV calculations over **each, 2, 5, 7, 10, 15, 20 and 40 years period, not simply the current 60 years one modelled as earlier exit is a possibility.** This should also be a more extensive combination of sensitivity analysis at each of these time periods of the proposed joint venture. These should include both a best and worst cases scenario for each, but as a minimum should include a rental market reduction of 10%, an interest rate **increase up to and including 8%, stress testing of the current proposed unit cost with additional 10% contingency and fees,** construction costs increases of 20% seen on other council schemes, exposure of the LLP to corporation tax **and VAT** which**

should include tax increases and decreases **down to 12% and up to 40%**, as we are still waiting on Counsel Advice on this. This model should also include provision for legal advice should the dispute resolution mechanisms fail and achieving each element of the council's affordable housing brief in full, not simply partially. This modelling and sensitivity analysis should also include a market value of property reduction of 20%, at any stage, and the likely effect on the sale of shared ownership properties or propensity of ownership default of the shared ownership properties **if the UK entered recession and GDP contracted by 7%**, and the financial impact on the joint venture **and council, including but not exclusively** of mortgage companies having first refusal over the LLP retained, rented percentage of these shared ownership properties, using historic recession trends particularly the results on Housing Associations of the 2008 financial crisis.

Officer Comments

There are an infinite number of potential sensitivities and combinations that could be modelled against the Strategic Financial Viability Model (SFVM), but those chosen by officers to date represent either the most likely or those with the most negative significant impact. For example the modelling of a reduction in all inflation rates by 1% over the entire 60 year period is most unlikely but is one scenario which would have a significant impact.

The sensitivity modelling requested does not mirror the approach being taken to the SFVM or provide a suitable level of stress testing and hence these sensitivities would provide a range of unviable results. Following approval of the SFVM, the approach of the JV will be to undertake individual viability assessments for each scheme as they come forward (at which stage there will be greater certainty around the interest rates and other costs). If the modelling at this stage shows schemes to be unviable they will not be progressed. In addition the JV will prepare annual budgets and Medium Term financial strategies (in a similar way to the council) that would highlight any future potential financial risks providing the opportunity to take action as appropriate. This report is seeking delegated authority to establish a JV after which further approvals will be required by PRG to release funding for individual schemes.

Furthermore the level of stress testing is inappropriate in terms of magnitude, for example in changes in interest rates (which have not reached 8% since 1992) and reference to market value reduction of 20% (and modelling entering a recession) and so forth. The council is clear that a VAT shelter can be operated and therefore no sensitivity is required for this and counsels opinion, which reflects similar projects across the country is that corporation tax does not apply.

Exit strategies are covered in the paper should the most disadvantageous set of circumstances apply to offer members re-assurance as to their options.

With regard to achieving each element of the council's Affordable Housing Brief in full, delivery against the Affordable Housing Brief is subject to National Planning Policy Framework considerations. These include developer viability and, in practice, this results in frequent challenge to full delivery of all elements sought. Hence, despite best efforts, we often do not achieve all elements of the brief. In particular, a key part of the brief is achieving a mix of affordable homes including affordable homes for rent. We have significant challenges on delivery of this element of the Affordable Housing Brief with very little delivery of affordable rented homes, other than via our own Estate Regeneration programme. A key part of this proposal is to address the shortage of homes for affordable rent. All schemes will have their own appraisal and approval process aligned to Business Plan and, if Council Land, landowner consent through the usual routes. This will offer ongoing member scrutiny around compliance with the Affordable Housing Brief. In addition, any schemes approved by Planning will have to meet Planning / Building Regulations around size / space standards.

The homes will meet Lifetimes Home standards for accessibility and Hyde and the Council are committed to meeting wheelchair housing need. The exact proportion of wheelchair housing will be reviewed on a site by site basis.

- g) That the council, in order to protect general fund services, internally underwrite the risk of any exposure to the loan for the LLP, which could result in the joint venture in any one year resulting in a deficit for the general fund; including any extension to right to buy: with the council's existing general fund asset portfolio (as the sale of any of these assets should be used to fill the gap if the sale of the joint venture properties is unobtainable) and/or future in year loans to fill any gap, which the JV profits in subsequent years could repay. This to ensure that should there be a deficit in any year, that in none of these years will the general fund have to make reductions to services to make loan repayments. This being conditional on it being a non-HRA loan. This to form part of the heads of terms, contract or equivalent legal document by the council solely **and/or** the Joint Venture.**

Officer Comments

As mentioned earlier, the JV will prepare annual budgets and Medium Term financial strategies (in a similar way to the council) that would highlight any future potential financial risks providing the opportunity to take action as appropriate. This report is seeking delegated authority to establish a JV after which further approvals will be required by Policy, Resources & Growth Committee to release funding for individual schemes.

The individual viability assessments of each scheme would need to demonstrate that the development was viable in accordance with the LLPs Business Plan and financial model, therefore providing the expected returns, which would enable the council to repay its debt. .

The council cannot offset any exposure with the sale of any of its existing asset portfolio. Any surplus assets would already be accounted for in our capital receipt estimates and other disposals will have revenue implications including the potential loss of rental income. Minimum Revenue Provision (MRP) will be set aside in every year to provide for the repayment of the borrowing which will be included in the Financing Costs budget

This has not been agreed between the parties, and Bevan Brittan would not in any event expect to see such an agreement in the Heads of Terms or any of the other legal documents because it would be an internal matter for the Council. The Council can accrue both usable and unusable reserves, and could explore whether it would be legally possible to create a specific earmarked reserve for this purpose, or as an alternative increasing its unrestricted reserves. It would need to take specific advice before doing so.

Exit strategies are covered in the body of the report and FAQs should the most disadvantageous set of circumstances apply to offer members re-assurance as to their options.

- h) That a full and in depth review spanning the preceding 5 years of Hyde Housing Association and Hyde Housing Group be conducted and reported back to members at a future meeting of this Committee. This should also include a 5 year outline of all credit rating agency ratings, outlining every upgrade and/or downgrade over this period.**

Officer Comments

FAQ 31, states that preliminary checks have been completed, we would have carried out the review detailed in h) for 3 years as a standard council practice following committee approval to progress. Officers have conducted a detailed review of the three year accounts and are comfortable with Hyde's financial viability at this stage. Officers have now also reviewed credit rating agency ratings back to 2010 to satisfy this request. Full due diligence regarding Hyde's long term viability will be undertaken at the next stage of the project.

- i) The Heads of Terms should clearly state at 2.1.6 d) the council or a third party to provide corporate and financial services, with an added, on costs incurred basis. Clarification on the requirement for a procurement process to be undertaken should **these good or services be provided by a** third party should also be set out to members at a future meeting of this committee.**

Legal advice has been obtained which confirms that no procurement process is required. The services will either be provided by the Council or Hyde and it is not envisaged to procure this from a 3rd party.

- j) Legal advice on state aid compliance should be provided extensively at the relevant committee agreement stage for the sale of any council land to the Joint Venture and the annual approval of the business plan approval stage.**

Officer Comments

Bevan Brittan have advised how to ensure compliance with the State Aid rules, and the Council and Hyde will be under an obligation to continue to do so when sites are brought forward for development under the overarching strategic land agreement and in line with a business plan. The advice states that State aid does not create any material issues for the proposed project structure, and this is not expected to change.

We would expect State Aid issues to be raised when Council consent must be obtained in line with the processes outlined in the Heads of Terms. Section 3.4 of the Heads explicitly reserves a right to the Council to obtain independent advice to ensure it is satisfied with any proposed land transfer value, and this will help it ensure compliance with the State Aid rules.

- k) It should be explicit in the heads of terms or subsequent contracts that any profit from the Joint Venture should be split on a 50/50 basis.**

Officer Comments

The Heads of Terms state in section 4.3.2 that the Council and Hyde will each own 50% of the joint venture vehicle. Any distribution will be made in the same proportion. The Heads of Terms can be amended to make this absolutely explicit.

- l) That the Heads of Terms be amended at 3.3.5 g) to delete '(or first phase)' and to instead read 'whole development'.**

Officer Comments

The Council and Hyde have agreed that property can be drawn down when certain conditions are met, including where funding has been agreed for the particular property or for the first phase of the development. Hyde and the Council will continue to refine and seek agreement on the detail of the draw down conditions working under the approved delegations from the H&NH Committee.

- m) That financial solvency checks for its lifetime be conducted on 'Hyde New Build' as outlined at 4.1.2 of the heads of terms.**

Officer Comments

Hyde New Build trading record is a matter of public record via companies house; the company is a trading company providing design and build services to Hyde's construction projects. The company is a wholly owned subsidiary of Hyde Housing Association, which is the only shareholder.

As Hyde New Build is a wholly owned subsidiary of Hyde, the company's viability relies on the viability of the group as a whole, so it is not necessary to undertake separate checks.

- n) Changes to the Heads of Terms be made to ensure that only the Housing and New Homes Committee can agree to a change in the reserved matters list and this cannot form part of the annual business plan to be changed.**

Officer Comments

The reserved matters could only be amended with the unanimous agreement of the Council and Hyde. This would be the same position for any element of the agreements entered into at the outset of the joint venture.

The question of what individual or committee has authority within the Council to exercise rights reserved to the Council is an internal governance matter for the Council and would not be a matter for the contracts with Hyde. The council would need to identify the correct route for decisions based on the council's constitution e.g. if there are financial implications to the council it may require PR&G approval.

- o) The expenses policy of the LLP as set out at 4.10 of the Heads of Terms should be agreed by a future meeting of this committee prior to the Heads of Terms being signed.**

Officer Comments

The Council and Hyde are both agreeable to a policy of zero expenses. Any expenses for Members attendance at board meetings would be a matter for the council to decide.

- p) The Heads of Terms be amended at 4.15 to read that 97% of fair value of 3 independent valuers, including the district valuer, shall be transferred in the event of a default.**

Officer Comments

The Council and Hyde agreed that the figure should be 90% on the basis that it would firstly act as a disincentive to breaching the terms of the Members' Agreement and secondly reflect normal market practice. In line with market practice, it was also agreed that a single independent valuation would be sufficient to calculate fair value. Although there is no legal reason why this cannot be changed to three independent valuers, including the district valuer, the risk is that it would disproportionately complicate the process and increase the timescale for reaching agreement.

It is the view of the council, Hyde and our legal advisers that this should stay at 90% as the surviving member of the JV will incur significant costs and inconvenience in the event that the other party defaults. A 3% discount would be out of line with normal practices and not adequately reflect this.

- q) The Heads of Terms be amended at 4.17 so that any third party must undergo financial solvency checks and be approved by the remaining partner of the Joint Venture.**

Officer Comments

The Heads do not contain a general right to veto over a proposed transfer, and more substantive changes to section 4.16 would be required to provide this. Under the current arrangement, the safeguards are (1) an initial lock-in period followed by a right of first refusal for the remaining party (2) the restriction against transferring to an "unsuitable party" (3) sufficient financial covenant for an intra-group transfer and (4) a continuing obligation to deliver the housing objectives of the joint venture. Bevan Brittan expects that Hyde would object to a general veto as it could allow the Council to prevent it from leaving the joint venture and would undermine the value and security of Hyde's investment. Likewise the Council would not be advised to accept such a veto from Hyde.

2.2 That Policy, Resources & Growth Committee:

- i) Support in principle the living wage joint venture proposal **subject to the further safeguards being put in place outlined above**; and
- ii) Give delegated authority to the Executive Director of Economy, Environment & Culture following consultation with the Executive Lead Officer for Strategy Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:
 - a) develop and negotiate the deal with Hyde;

- b) ~~agree and authorise execution of~~ **develop** the Heads of Terms and subsequently the documentation required to implement the proposed Joint Venture; **both of which should come back to a future Housing and New Homes Committee, Policy Resources and Growth Committee and Full Council for final approval**
- c) ~~make the appointments~~ **suggestions on the Council officer advisory attendees** from the Council to the management board; **as the councils three members of the board shall be the chair of the housing and new homes committee, the opposition spokesperson of the housing and new homes committee and the minority groups spokesperson of the housing and new homes committee. Such positions should be capable of being substituted for by other members, and relevant council officers may attend purely in an advisory capacity to assist members. The Chair of the Board should also be the chair of the committee, who will hold a casting vote: in perpetuity. Final details of this advisors list, should come back to a future Housing and New Homes Committee for final approval.**
- iii) Note that reserved matters (as detailed in 3.30) will come back to **the Housing and New Homes** committee, **as well as the Policy Resources and Growth Committee** for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV.

Officer Comments

Under the existing proposals the Council will delegate authority to senior officers to agree the final Heads of Terms in light of all advice received and execute all documents necessary to implement the joint venture. Members would retain oversight via the cross party Estate Regeneration Board and Strategic Delivery Board.

The casting vote issue is covered above and is not consistent with a 50:50 JV.

AGENDA ITEM 40
HOUSING DELIVERY OPTIONS – LIVING WAGE JOINT VENTURE
GREEN GROUP AMENDMENT

That the following amendments be made to the recommendations listed under point 2, so that the document reads as follows:

2.2 That the Policy, Resources and Growth Committee:

- i) Give delegated authority to the Executive Director of Economy, Environment and Culture following consultation with the Executive Lead Officer for Strategy, Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:
 - a) Develop and negotiate the deal with Hyde; ***in which the following are sought:***
 - 1) ***100% of nominations for Living Wage Rented Housing are provided only for households from the BHCC waiting list, for whom specifically, the market rent for housing in the private sector exceeds 50% of their income.***

This is estimated at an annual gross income of:

- ***£36,000 for a three-bed***
- ***£31,000 for a 2 bed,***
- ***£22,500 for a one bed***
- ***£16,000 for a studio***

Officer Comments

As outlined in paragraph 3.34 of the main report and in response to Frequently Asked Question 4 the Living Wage proposal concurs with the Council's draft Allocations Policy which proposes an income cap against the size of accommodation needed so that those high earners who can resolve their housing in the private rented sector are no longer on the Housing Register whilst retaining those on lower incomes who would benefit from Living Wage housing.

This proposed amendment is aligned to separate amendments received from Cllr Gibson for Housing & New Homes Committee regarding the Allocations Policy. These proposed amendments to the Allocations Policy will be considered under a separate report to Policy, Resources & Growth Committee. The key issue is that further consultation on the Allocations

Policy would be required for changes to the current draft Allocations Policy to be considered, including with regard to the setting of any income cap.

- 2) That 100% of nominations for shared ownership properties are achieved for residents with a local connection to Brighton and Hove, as defined in the Housing Allocations Policy**

Officer Comments

This is fine in principle however the JV may need to offer sale more widely if there is no take up locally.

- 3) That a 'first refusal' option is agreed in the event Hyde become bankrupt; and/or that in the event that Hyde should separately dispose of their stake in the partnership, that their stake be sold to the council or to a charitable housing association, with charitable objectives;¹**

Officer Comments

The parties have currently agreed that:

- 1. if either defaults under the Members' Agreement (which includes becoming insolvent) the other may acquire its interest in the LLP at 90% of the interest's fair value, as determined by an independent valuer;*
- 2. either can transfer its interest to a third party at any time with the prior written consent of the other;*
- 3. either can transfer its interest to a third party after an initial lock-in period, but only after offering the interest to the other member on the same terms;*
- 4. either can transfer its interest to another member of its group (subject to the new member having a sufficient financial covenant and returning the interest if it leaves the group);*
- 5. there may be no transfer to an "unsuitable person";*
- 6. an incoming third party must adhere to the Members' Agreement and Business Plan then in force.*

Hyde is therefore free to transfer its interest to a third party after the lock-in period has passed if the Council does not exercise the right of first refusal referred to in point 3 above. Under the current proposals, the third party would not need to be a charitable housing association.

The Council could seek to change this position by agreeing with Hyde that if the Council chooses not to exercise the right of first refusal then for a period of [] days, only charitable housing associations would be given the opportunity to acquire its interest (at market value), failing which it would be free to choose the third party.

Hyde might be willing to agree to such a proposal because in both circumstances it will be paid the interest's market value (subject to receiving only 90% of fair value when a transfer takes place after a default).

4) That the rent levels set are reduced to the levels modelled in the 30% of living wage rent sensitivity test, (made possible by lowering the rate of return in the base model)

~~b) agree and authorise execution of the Heads of Terms and subsequently the documentation required to implement the proposed Joint Venture;~~

Officer Comments

The rents are currently modelled at 40% of the living wage (based in living wage in 2019), if the rent levels in the financial model are reduced to 30% of the living wage this would add significant risk to the JV proposal, bringing the Internal Rate of Return (IRR) on the affordable rented units to approximately 3%, with the overall IRR for the JV (i.e. including shared ownership units) to 4.5%. This financial risk would not be acceptable to either party in the partnership.

b) the final terms of the agreement be put forward and agreed by full meeting of Council, prior to the completion of the deal;

~~e) Make appointments from the Council to the management board;~~

Officer Comments

Under the existing proposals the Council will delegate authority to senior officers to agree the final Heads of Terms in light of all advice received and execute all documents necessary to implement the joint venture. Members would retain oversight via the cross party Estate Regeneration Board and Strategic Delivery Board.

AGENDA ITEM 40
HOUSING DELIVERY OPTIONS – LIVING WAGE JOINT VENTURE
GREEN GROUP AMENDMENT

That the following addition be made to the recommendations listed under point 2, section (iii), so that the document reads:

- iii) Note that the reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV
- iv) ***That reserved matters for the Joint Venture should include:***

- (a) An option to veto any future rent increases that exceed increases in the National Living wage;***

Officer Comments

The Council and Hyde would not be able to agree to this veto (also see FAQ 24).

To 'peg' rents to the National Living Wage would create financial uncertainty for the Joint Venture, as these increases are politically controlled. It would not prudent to make a significant investment decision based on an unknown factor. Financial modelling assumes rent increases will be in line with the Consumer Price Index (CPI). This provides certainty in financial planning and should also ensure that rents do not rise at a higher rate than the cost of living, keeping pace with wage increases. Note that this is lower than historical rent increases for Housing Associations and Council's which are generally at CPI+1%.

- (b) An option to veto any future rents increases that raise combined rents and service charges above the Local Housing Allowance;***

Officer Comments

The Council and Hyde would not be able to agree to this veto (also see FAQ 24).

Financial modelling assumes rent increases will be in line with the Consumer Price Index (CPI). This provides certainty in financial planning and should also ensure that rents do not rise at a higher rate than the cost of living, keeping pace with wage increases

c) An option to increase allowances for maintenance of properties after year 10 in the model

Officer Comments

These proposals are not contained in the Heads of Terms. Proposed increases set out in the business plan, linked to CPI, would not need approval from the owners. Any variation away from the business plan, e.g. making an increase or decrease other than CPI, would require approval of both parties.

The allowance increase should not be required as the financial modelling includes allowances for management, responsive maintenance and life cycle costs for ongoing stock investment (described as major works sinking fund in assumptions table). These allowances are annually inflated each year. The Council's Finance department have reviewed the assumptions and costs compared to those used in BHCC New Homes for Neighbourhood (NHFN) viability modelling and consider them comparable and adequate to provide a good quality management and maintenance service, together with adequate allowance for stock investment into cyclical works for example to include replacement windows and roofs and so forth.

That the following addition be made to the recommendations listed under point 2, section (iii), so that the document reads:

- iii) Note that the reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV

- iv) That should the business model exceed its projected rate of return, all surplus monies be ring fenced exclusively to provide additional council owned emergency accommodation for homeless people and additional living wage rented housing**

Officer Comments

Note the above should read all council surpluses (to be clear the is not all LLP surpluses which would include Hyde's share).

In principle this recommendation seems acceptable and it would seem reasonable for members to agree this in principle. However, the detail and mechanism for how this will operate will need to be considered and will come back to a future Policy, Resources and Growth Committee for approval.