

## SOUTH HOLLAND DISTRICT COUNCIL

**Report of:** Portfolio Holder – Assets & Planning  
Portfolio Holder – HRA & Private Sector Housing  
Christine Marshall, Deputy Chief Executive (Corporate Development) & S151

**To:** Cabinet – 26<sup>th</sup> October 2021  
Council – 24<sup>th</sup> November 2021

**Author:** Caroline Hannon Head of Delivery

**Subject** HRA Housing Delivery Framework

**Purpose:** To introduce a HRA Housing Delivery Framework to inform future investment decisions for the HRA Capital Programme relating to housing development.

### **Recommendation(s) for Cabinet:**

1. That the proposal to amend the Policy Framework to include the HRA Housing Delivery Framework is supported and recommended to Council for approval.

### **Recommendation(s) for Council:**

2. That the HRA Housing Delivery Framework, at Appendix A to this report, which informs and guides future Executive decisions for the HRA Capital Programme for housing development, be approved and the Policy Framework be amended to include the
3. That the HRA Housing Delivery Framework be included as a local choice policy in the Council's Policy Framework and that the Constitution, at Article 4.3, be amended accordingly.
4. That the Deputy Chief Executive (Corporate Development) & S151 be granted delegated authority, in consultation with the relevant Portfolio Holder, to negotiate, approve, enter into and sign grant agreements relating to grant allocations which have been approved by Council, Cabinet or Portfolio Holder relating to the delivery of homes for the HRA.

## **1.0 BACKGROUND**

- 1.1 SHDC has committed to the delivery 157 new homes since 2017.
- 1.2 At Council on 23<sup>rd</sup> September 2020, it was agreed to add two additional Housing Development Project Managers to the establishment to support the authority's continued growth ambitions and to enable the authority to explore a wider range of delivery opportunities for both the HRA and SHDC's housing companies. The additional Project Managers have been in post since February 2021.
- 1.3 The delivery of further new homes for the HRA will enable the authority to continue to meet the needs of residents and replace homes lost through Right to Buy sales.
- 1.4 With the likelihood of new schemes being identified and considered in the near future, it is appropriate to agree a policy framework to support decisions against a budget set and agreed by Council.

- 1.5 The 2021/22 HRA Capital Programme was approved by Council in March 2021. £4,706,000 was allocated for 'Housing development schemes subject to detailed approval' (known as the 'HRA Development budget'). This provides resources for schemes which have not yet been identified or approved.
- 1.6 It is commonplace for large capital budgets, approved by Full Council, to have a corresponding policy framework which sets the remit for spend by the authority's Executive. Until now, such a framework has not existed for the HRA development budget. This report seeks to establish a framework within which executive decisions will be made to utilise the agreed HRA Development budget. Any proposals that fall outside of this framework will require Council approval.
- 1.7 This HRA Housing Delivery Framework is not relevant to General Fund housing development activity, and is only intended to provide a framework for HRA development activity with the approved HRA Development budget. Any housing activity related to the General Fund (or the authority's housing companies) will continue to be considered in the usual way.
- 1.8 This HRA Housing Delivery Framework is being prepared as a first step towards the authority adopting a full development/delivery strategy. A full development/delivery strategy will be prepared and will set out the strategic approach to all of the Council's development activity both for the HRA and non-HRA delivery (including, for example, schemes delivered through the authority's housing companies). The broader development/delivery strategy could include expectations around preferred delivery models, site regeneration, design standards, expected return on investment, delivery targets and procurement approach.
- 1.9 In the absence of a HRA policy framework, the approach has been to seek Council approval for a number of schemes. Once the policy framework is established, decisions to pursue individual projects will be taken by the Executive in accordance with the framework and based on a robust business case. Such decisions will be subject to member call-in. If the Executive wanted to pursue any scheme which is outside of the remit of the framework, then Full Council would be the decision-making body for such decisions.

## **2.0 HRA OPTIONS TO BUILD AND ACQUIRE NEW HOMES**

2.1 There are a range of different housing delivery models which could be explored for the HRA. These come with a range of different advantages, risks and financial benefits. The HRA Housing Delivery Framework proposes that any of the delivery models could be explored for the HRA, and identifies the appropriate decision-making authority for each model. The paragraphs below provide a summary of the nature of each model.

### **a) S106 Affordable Housing acquisitions**

The Local Plan requires an element of Affordable Housing to be provided on appropriate housing development sites. Planning Committee approves applications and indicates the appropriate level of Affordable Housing for each consented scheme. The necessary affordable housing dwellings are obliged to be provided by the developer by virtue of a contract known as a 'S106 agreement'. The S106 affordable dwellings are only able to be provided as affordable tenures and accordingly their open market value is constrained. Affordable Housing providers can usually purchase these completed dwellings at less than the value of equivalent market dwellings. The housing need for these homes, and the appropriate mix and tenure will have been established as part of the drafting of the S106 agreement. However, the specification will be determined by the developer and the authority will have little influence on the specification of the units if it becomes the affordable housing provider. The contractual arrangements for this type of acquisition are that the authority would only be obliged to buy the homes once satisfied that the dwellings have been constructed to a satisfactory, agreed standard.

b) Design and Build projects on SHDC land

These projects provide more freedom for the authority to control all aspects of the housing scheme. The authority would devise the scheme and influence the layout, tenure mix, property types, property specification and construction method. The authority would appoint and manage professional services such as architects and contractors to design and build the preferred scheme in accordance with the public procurement rules. Design and build schemes are more intensive in terms of internal project management and contractual responsibilities which can increase risk. Additionally, they can take longer to come to fruition. However, these projects can provide a greater level of return for the authority than an acquisitions project and Government grant funding can be sought and invested into such projects.

c) Open market new-build dwelling acquisitions

The authority can seek to negotiate with developers to acquire completed dwellings which would otherwise be sold on the open market. The dwellings can then be used to provide affordable homes. A bulk purchase of market dwellings may be available for a discount on marketing values but this would be more than the cost of equivalent designated S106 affordable homes. The contractual arrangements for this type of acquisition are that the authority would only be obliged to buy the homes once satisfied that the dwellings have been constructed to a satisfactory, agreed standard. The negotiation to purchase the homes could occur at any stage of the build process (including prior to construction commencing or following completion). This means that on some sites, the homes could be acquired immediately following contracts being exchanged. The authority is likely to have little control over the property specification which is likely to be a higher standard than other affordable homes, such as including garages or en-suite bathrooms. Government grant funding is likely to be available to support this type of scheme. An investment of grant funding would improve the return on investment for the authority.

d) Right to Buy buyback properties

When Council homes are sold to tenants via the Right to Buy the authority retains a right of first refusal to buyback the property when the tenant wishes to sell. The homes are available to purchase at full market value. The acquisition of an individual property can be more expensive than a bulk purchase because there are no economies of scale for commissioning on-costs such as legal expenses and there wouldn't be a discount on the purchase price as there might be for a bulk acquisition. However, there can be strategic reasons why it may be preferable to buyback former Council properties such as if the authority still owns the adjoining property or if it could provide access to adjoining developable land.

e) Second-hand property acquisitions from the open market

Acquisitions would be available at full market value. The costs of acquiring individual properties would not provide the economies of scale available for a bulk purchase. Whilst there can be appropriate strategic reasons why it may be beneficial to purchase second-hand properties, such as to meet a specific specialist housing need, generally they may be poorer quality than newbuild homes and would not come with a warranty. However, the properties would be easy to identify as they would be advertised for sale and could be acquired quickly.

f) Land purchase

The authority could purchase private land which is suitable for housing delivery. This would allow the authority to deliver more design and build projects. The land acquisition price is likely to be higher for land which is being sold with the benefit of Planning consent for housing development.

g) Joint ventures

The authority could enter into a joint venture with another entity to deliver housing. This could leverage long-term investment from the private sector into development projects or the authority could benefit from private sector assets/expertise. The basic premise of the model could be that the authority would enter into a partnership with a private body. The council could transfer property assets into a new joint venture company, with the JV partner (likely to be a developer/RP) matching the value of the portfolio. The partnership uses these joint assets as collateral to raise finance for regeneration or development projects. Development profits are then split appropriately between the parties. The benefit is that it allows equal control over the development and an appropriate balance of risk and reward. It can also enable the authority to access skills and experience that it may not have in house. The establishment of a joint venture can take some time and therefore it would be unlikely to deliver new homes in the short-term. There would be costs associated with establishing a joint venture company and the process can be resource intensive and would require a full procurement process.

2.2 The HRA Housing Delivery Framework also provides a number of key considerations/guiding principles for any future schemes including:

- a) Tenure mix
- b) Property mix
- c) Specification
- d) Location
- e) Range of development partners
- f) Building Control inspections

2.3 A proposed HRA Housing Delivery Framework is provided at Appendix A. The Framework sets out those delivery models which it is proposed should be pursued for the HRA utilising the approved HRA Capital Programme for schemes subject to detailed Executive approval. Any scheme identified which meets the criteria of the HRA Housing Delivery Framework would be approved by the Executive on the strength of a detailed business case. Any scheme which does not meet the criteria would require Council approval.

2.4 A number of the housing delivery models included in the framework can deliver housing schemes which could potentially be subsidised by external funding such as from the Homes England Affordable Housing Programme. External funding can improve the viability of schemes and provide a better return for SHDC's investment. Currently, Council amends budgets and approves any decision which will have a material impact on a budget, in accordance with Financial Procedure Rule 3.8(h). This report proposes that the Deputy Chief Executive (Corporate Development) & S151 be granted delegated authority, in consultation with the relevant Portfolio Holder, to accept grant allocations relating to the delivery of HRA homes within the scope of the policy framework, where there is no material impact on the Council budget.

### **3.0 OPTIONS**

- a) That Cabinet supports and Council amends the Policy Framework to include the HRA Housing Delivery Framework which will inform and guide future investment decisions relating to the HRA Capital Programme Housing Development budget. This allows Council to determine the approach to approving future housing schemes. This option is recommended.
- b) Do nothing. In this event, there would be no certainty around the preferred approach to delivering new housing schemes. This could delay schemes being approved. The Executive would continue to approve Business Cases for individual schemes without a Framework being in place to guide such decisions.

#### **4.0 REASONS FOR RECOMMENDATION(S)**

- a) To identify the preferred nature of schemes for future investment.
- b) To ensure that investment decisions are made which adhere to the framework.
- c) To clarify that schemes which are outside of the remit of the framework will only be pursued if they have been referred to, and approved by, Council.
- d) To provide a framework within which the Executive can approve the delivery of HRA housing projects.

#### **5.0 EXPECTED BENEFITS**

- 5.1 The adoption of a HRA Housing Delivery Framework is intended to provide a range of benefits including:
- a) It provides an approved policy framework to sit alongside the approved HRA Capital Programme for new housing.
  - b) It will create certainty and fill a constitutional vacuum where currently there is no policy framework to guide decisions. Decisions will be made in accordance with the law with the Executive having the authority to spend the approved budget.
  - c) It defines the nature of schemes which can be approved by the Executive relating to future development activity.
  - d) It allows Council to set criteria for how the capital programme budget is allocated.
  - e) It enables the Executive to approve housing schemes which meet agreed criteria.
  - f) It enables the authority to act more commercially and to make investment decisions in line with the law and within an agreed criteria, in a timely manner.

#### **6.0 IMPLICATIONS**

##### **6.1 Constitutional & Legal**

- 6.1.1 Council will continue to set the HRA Development budget annually. The adoption of a HRA Housing Delivery Framework will establish the parameters for how the budget is spent. This will be reflected in the Council's Constitution and in particular, Article 4 (Policy Framework).
- 6.1.2 Under Standing Order 25, the Cabinet is responsible for making recommendations to the Council in respect of changes to the Policy Framework. Prior to making such recommendations, the Policy Development Panel must be consulted. If the Council objects to any change to the Policy Framework proposed by the Cabinet, it must refer the matter back to Cabinet for further consideration and it must consider the response of the Cabinet before making any final decision on the proposed changes.
- 6.1.3 A detailed business case will be prepared for any new housing scheme. The Executive already has responsibility for approving individual business cases.
- 6.1.4 The Constitution allows Cabinet or a Portfolio Holder to make decisions to accept grant allocations, in excess of £100,000, where the Deputy Chief Executive (Corporate Development) & S151 certifies that the grant does not have a material impact on the Council budget. This is relevant to any grant allocation. However, for the avoidance of doubt, the delegation at Recommendation 3 of this policy framework only relates to grants allocated to enable the delivery of homes for the HRA.
- 6.1.5 The Constitution already provides for the Executive to approve business cases for new housing schemes.

##### **6.2 Corporate Priorities**

6.2.1 The SHDC Corporate Plan 2019-23 sets out the Council's vision for the district and its priorities for this period.

6.2.2 This HRA Housing Delivery Framework will support the agreed vision and priorities of the Plan, including:

- Be a landlord of choice for our council housing tenants.
- Maintain our commitment to Council Housing by building new council homes to replace those that have been lost.
- Providing good-quality housing that everyone in our community can call their home.
- Applying for national and regional funding to help with local projects.
- Work to prevent and mitigate homelessness.
- Enable effective planning and delivery of housing solutions to meet local needs and aspirations to ensure that our residents have access to a range of housing options in the district.
- Ensure that our residents are enabled to live in high quality housing no matter the tenure.
- Deliver substantial and continued growth as proposed through our Local Plan.
- Proactively work with partners to identify and optimise funding opportunities that will draw resources into the district to support our plans for substantial and continued growth

### 6.3 **Financial**

6.3.1 Council will continue to establish the HRA Development budget, each year.

6.3.2 The adoption of a HRA Housing Delivery Framework will identify the parameters for spending the HRA Development budget.

6.3.3 Any grant allocations awarded to support the delivery of HRA housing schemes will be subject to terms and conditions. Regardless of who approves and accepts any grant allocation awarded to the authority, there is a risk that the grant would be repayable in the event that the authority is unable to adhere to all of the conditions of grant. If this situation were to arise, officers would seek to renegotiate the grant conditions with the funding body to seek to enable all or part of the grant to be retained/claimed.

6.3.4 Details of any grants awarded to the authority, in line with Recommendation 3 above, will be reflected in subsequent finance reports presented to Council.

### 6.4 **Risk Management**

6.4.1 The development process comes with inherent risk. Certain types of development activity come with greater levels of risk.

6.4.2 All funding decisions will be based on a robust business case to ensure that development risks are managed and mitigated.

6.4.3 Where possible, Building Control inspections will be undertaken by SHDC Building Control officers during the construction phase to provide an additional layer of certainty around the quality of the product.

### 6.5 **Staffing**

6.5.1 Additional staffing resources have been brought into the establishment to support the delivery of a HRA housing delivery programme based on a range of delivery methods as set out in the HRA Housing Delivery Framework.

### 6.6 **Stakeholders / Consultation / Timescales**

6.6.1 Housing Development Officers will continue to liaise with Government bodies to attract grant funding into the district.

- 6.6.2 Housing Development Officers will continue to liaise with developers, land-owners and agents to promote SHDC's delivery objectives.
- 6.6.3 In accordance with section 6.1.2 above, the Policy Development Panel has been consulted on a draft HRA Housing Delivery Framework. The draft HRA Housing Delivery Framework has been updated to reflect the feedback from the Panel. A summary of the feedback and the changes to the Framework are provided below.

Feedback	Response / amendments to the draft Framework
It will be good to have a strategy for HRA delivery.	Noted. No changes to the draft document.
Do we have the appropriate skillset in-house to deliver the range of different housing delivery models?	Following the decision of Council on 23 <sup>rd</sup> September 2020, to add two additional Housing Development Project Managers to the establishment, there is now appropriate resource in-house to deliver the range of different housing delivery models set out in Section 2, above. No changes to the draft framework.
Can the Framework ensure that housing is provided in locations which are serviced by appropriate infrastructure and amenities?	The 'Location' section of the Framework has been updated to reflect this feedback to summarise the nature of an appropriate location.
To ensure that when the authority is acquiring groups of properties that there is clarity around responsibilities for grounds maintenance.	A new 'land ownership' section of the Framework has been created to reflect this feedback and to summarise that the due diligence process will ensure that exposure to management costs is minimised where possible and that there is clarity around ownership and responsibilities.

- 6.6.4 The HRA Housing Delivery Framework will apply to all new housing schemes being considered for funding from the HRA Development budget (for 2021/22 and subsequent years) from the date Council approves the policy framework.

## 7.0 WARDS/COMMUNITIES AFFECTED

All

## 8.0 ACRONYMS

HRA – Housing Revenue Account

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Background papers:-

### Lead Contact Officer

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**Key Decision:** N

**Exempt Decision:** N

### Appendices attached to this report:

Appendix A HRA Housing Delivery Framework

## Appendix A

### **South Holland District Council Housing Revenue Account Housing Delivery Framework**

This framework identifies potential housing delivery models and the appropriate decision-making authority for future investment decisions.

This framework relates to any investment decisions utilising the HRA Capital Programme budget for Housing Development – schemes subject to detailed approval. The HRA Housing Delivery Framework will apply to all new housing schemes being considered for funding from the HRA Development budget (for 2021/22 and subsequent years) from the date Council approves the policy framework until such time as the Framework is amended or replaced.

Government grant allocations will also be utilised, where available, to improve the viability of schemes and provide a better return for SHDC's investment. The S151 Officer has delegated authority to approve grant allocations which will support the delivery of new affordable homes and have no material impact on the budget.

Scheme approval, including the allocation of funds within the approved HRA Capital Programme for housing development, will be in accordance with the following criteria.

#### **Housing Delivery Models**

Except in a case where the Full Council has given specific approval to a scheme that falls outside of this Framework, any individual scheme approved by the Executive shall have an anticipated cost of less than £2 Million and shall comprise one or more of the following models:

**S106 affordable housing** – The purchase of completed affordable homes delivered by a developer or developers pursuant to the terms of an agreement under s106 of the Town and Country Planning Act 1990.

**Design and Build projects on SHDC land** – The development of properties on sites already in SHDC's ownership, following consideration of a feasibility study prepared for that purpose.

**Open market new-build dwelling acquisitions** – The purchase of open market new-build dwellings where the business case evidences that those properties will address an identified housing need.

**Right to Buy 'RTB' buybacks** – The purchase of former Council properties that have been sold under RTB, where there is considered to be an unmet housing need or a strategic reason for the acquisition (such as to provide access to an adjoining potential housing development site).

**Second-hand property acquisitions from the open market** – The purchase of second-hand open market properties where there is considered to be an unmet housing need or a strategic reason for the acquisition (such as to provide access to an adjoining potential housing development site).

**Land purchase for design and build projects** – The purchase of land which is deemed suitable for the delivery of new homes.

**‘De Minimis’ development or acquisition activity** - Any development or acquisition activity not exceeding £250,000 for any individual scheme. Examples of such ‘De Minimis’ activity include minor activity which might be necessary to support potential housing sites to progress; the purchase of small parcels of land (such as grass verges, access points, private gardens, garage plots) to improve the nature of potential housing sites; and the purchase of individual properties where there is considered to be an unmet housing need or a strategic reason for the acquisition (such as to provide access to an adjoining potential housing development site).

### **Property requirements**

The following property requirements will apply to any schemes to be approved.

**Tenure** – The scheme will provide homes which are an appropriate tenure as evidenced by local housing need data. The tenure could include Affordable Rent, Social Rent, temporary accommodation, Shared Ownership or any other affordable tenure as defined in National Planning Policy Framework, or equivalent.

**Property type** – Schemes will provide appropriate property type(s) as evidenced by local housing need data. Property types could include a house, flat, bungalow or specialist housing unit.

**Location** – New homes will be provided in appropriate locations serviced by local amenities and infrastructure. This could include areas with appropriate public transport and/or which are serviced by local amenities (such as shops, schools, doctors etc).

**Specification/Quality** – The specification of any new homes approved will ensure that quality housing is provided which enhances SHDC’s stock portfolio and supports the authority’s ambition to be a landlord of choice. The acquisition of a second-hand properties will be informed by appropriate property surveys.

**Land ownership** – Due diligence will be undertaken on all new homes to understand and minimise exposure to management company costs and to ensure there is clarity around land ownership and responsibilities.

**Range of local building firms** – The authority will publish this HRA Housing Delivery Framework to make the authority’s delivery objectives clear to all building firms. This will provide all developers with an equal opportunity to approach SHDC to discuss appropriate opportunities for delivery. The authority will seek to ensure, as far as possible, that it supports as many local builders as possible. Public procurement rules will apply in accordance with the law and SHDC constitution.

**Building Control** – New homes delivered will be inspected by the Council’s Building Control officers unless there is a specific reason for delivering homes which have instead been inspected by an approved assessor. This could include delivery of homes which meet an unmet housing need but at the point of entering into contract with the developer, the building inspections have already been undertaken by an approved assessor.

### **Housing delivery models outside of this framework**

Any HRA housing delivery project which does not meet the criteria set out above shall require Council approval.