



Cabinet Member Report

Decision Maker:	Cabinet Member for Finance and Smart City
Date:	13 July 2021
Classification:	For General Release <i>(Appendix 3– Exempt from public disclosure)</i>
Title:	Westminster Community Homes – Funding requirements for revised development programme
Wards Affected:	All
City for All Summary:	Delivering more affordable housing
Key Decision:	No
Financial Summary:	This report seeks approval for Affordable Housing funding for Westminster Community Homes of £3.773m and the provision of additional loan financing from the Council of £2.7m. These items of funding, combined with Westminster Community Homes own resources, will be used to develop two sites which are already in Westminster Community Home’s ownership and a small programme of low-cost shared ownership homes to deliver in total circa 50 additional affordable homes for use by Westminster City Council nominees.
Report of:	Executive Director of Finance & Resources

1. Executive Summary

- 1.1 Westminster Community Homes (WCH) has been active in purchasing leasehold properties on behalf of Westminster City Council (“Council”) in its regeneration areas to help to provide vacant possession of blocks identified for demolition. WCH

has also been acquiring other units outside of the regeneration areas to provide additional affordable housing stock for Council nominees.

- 1.2 In April 2019, the Cabinet Member for Finance, Property and Regeneration and the Cabinet Member for Housing took the decision to provide £15m from the Council's Affordable Housing Fund (AHF) to contribute towards the acquisition of additional spot purchases by WCH at an agreed rate of £250k per unit. The decision was for the AHF funding to deliver a total of 60 units of affordable homes to be let as Intermediate Rent and contribute towards the 'City for All' housing target either through spot purchases and/or new build development. It also included temporary flexibility to use the AHF for any necessary contribution towards a new build opportunity that was being explored by WCH at that time.
- 1.3 The development site being considered by WCH at that time, was to develop additional affordable homes was Victoria Wharf Phase 2. Later in 2019, a second site at 581-587 Harrow Road came to the market which provided WCH with a further opportunity to develop homes. In order to acquire these sites a total of £8m AHF was used from the agreed £15m, following verbal agreement with the Council by the use of the funding for the second site. Although this reallocation of funds has initially reduced the number of spot purchases to 28 units it has opened up the prospect of circa 45 new build units being delivered through these developments.
- 1.4 WCH have successfully applied for GLA funding towards this acquisition and new build programme, both the acquisitions and the new build units are being funded at a grant rate of £28k per unit. This income has been factored into WCH's financial assumptions for this revised development programme.
- 1.5 In order to deliver this revised programme WCH are seeking approval for additional AHF funding of £3.773m and a Council loan of £2.7m. The AHF request relates to £3.250m for 13 additional planned units (per paragraph 5.4), £0.4m for five shared ownership acquisitions (per paragraph 5.4) and an additional £123k top up of AHF in respect of five historical acquisitions. These funds, coupled with GLA grants and WCH's own resources, will enable the delivery of the revised programme.
- 1.6 As at 1st April 2020, there were £242m in balances held in the AHF. Between 2020/21 and 2030/31, it is presently anticipated that AHF funding of £420m will be required by the Council to fund future affordable housing schemes where AHF has already been approved or is planned to be approved. This AHF funding requirement includes the WCH request for £3.773m as set out in this report. There are presently sufficient balances held in the AHF to resource WCH funding requirements.

- 1.7 The total AHF funding requirements for £420m between 2020/21 and 2030/31 is dependent upon existing AHF balances of £242m being supplemented by average new receipts of £25m being secured each year from developers under their planning obligations.

2. Recommendations

That Appendix 3 be exempt from public disclosure by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972, as amended – information relating to the financial and business affairs of the authority.

That the Cabinet Member for Finance and Smart City approves:

- 2.1 A funding allocation of £3.773m be provided to Westminster Community Homes from the Council's Affordable Housing Fund
- 2.2 The provision of a Development loan financing of £2.7m to Westminster Community Homes over 25 years period
- 2.3 Delegate authority to Executive Director of Finance and Resources to approve final terms and enter into the loan and funding agreements together with any other associated legal agreements.

3. Reasons for Decision

- 3.1 The provision of funding by the Council to Westminster Community Homes assists in the delivery of additional affordable homes in the city. These units contribute towards the 'City for All' housing target and provide rehousing opportunities for City Council nominees.
- 3.2 It is a permitted use of the Affordable Housing Fund to finance the delivery of new affordable housing in Westminster. The Council has the ability to provide loan financing into WCH to also support this provision.

4. Background

- 4.1 Westminster Community Homes was formed by the Council in December 2008 as a Co-operative and Community Benefit Society (CCBS) with charitable objectives and is registered with the Financial Conduct Authority (FCA). In December 2009 it became a Registered Provider of affordable housing regulated by Regulator of Social Housing.

- 4.2 On 19th February 2018 the Cabinet agreed that WCH should become a wholly controlled subsidiary of the Council. WCH Board also approved this approach and the necessary rule changes were approved by the Financial Conduct Authority with effect from 2nd May 2018.
- 4.3 Since its inception WCH has been active in purchasing leasehold properties principally within the Council's estates. WCH are currently working as the Council's agent in the regeneration areas to acquire leasehold units to provide site assembly and also decant/move on opportunities for tenants and lessees in blocks identified for demolition. WCH also acquired units and develops new homes to increase its own stock and make additional affordable homes available to City Council nominees. WCH provides WCC with 100% nomination rights to its units. WCH currently has almost 500 homes in its ownership.

5. Revised development programme

- 5.1 WCH had been in discussions with the Council concerning a new development programme which would deliver a total 183 units over a five- year period including the 60 units funded through the £15m AHF approved in April 2019. In view of the capital constraints facing the Council, WCH were asked to review their programme and they are now seeking funding approval for this revised programme.
- 5.2 Following the approval of the Cabinet Member report in April 2019 for £15m of AHF towards the provision of 60 additional affordable homes, WCH started a new programme of acquisitions principally on Council estates outside the regeneration areas and have acquired a total of 28 units for use as affordable homes, in part funded by the use of £7m from the £15m AHF facility at the agreed rate of £250k per unit. Works were carried out on each one to bring them to the required standard and these are now let as Intermediate Rented units to Council nominees. The remaining £8m AHF from the £15m facility was used to acquire the two sites which are Victoria Wharf (Phase 2) and 581-587 Harrow Road W10, the details of which are set out in para 5.3 below.
- 5.3 The revised development programme against which the requested affordable housing fund and council loan funding will be applied comprises of three schemes which are as follows:

a. Victoria Wharf (Phase 2)

This site is the former builder's yard at the end of St Johns Terrace W10 overlooking the Grand Union Canal. This land adjoins WCH's most recently completed new build scheme, Victoria Wharf which was awarded two major housing awards (Best affordable housing scheme in Greater London by the

Evening Standard and Best Affordable Housing scheme under £5m by Building Magazine) as well as being short listed/commended for four other awards.

Planning permission has now been granted for phase 2. This will provide 20 units for Intermediate Rent and start on site began in January 2021. The new phase reflects the first phase in style and finishes and once completed the two phases will be joined as one development.

b. 581-587 Harrow Road W10 (Former MOT Yard)

This site is the former MOT yard on the corner of Harrow Road and St. John's Terrace, just 50 metres from Victoria Wharf. WCH completed the purchase of this site in August 2020, the completion being delayed due to lockdown. The design team has now been assembled and initial discussions have been held with the Planners concerning this site and an application for a Planning Performance Agreement has been submitted. WCH are looking to deliver circa 25 affordable homes and anticipate obtaining planning permission in early Summer 2021 with a start on site in Autumn 2021.

c. Low-cost shared ownership scheme

WCH provides its Intermediate Renters with assistance towards a move into home ownership (normally shared ownership) through its Horizon scheme. This provides grants of £2k per annum subject to the tenants meeting their good tenant conditions which are that rent is paid on time every time, that there is no Anti-Social Behaviour and the property is kept in good order. Each letting is on a 12 month Assured Shorthold Tenancy which can be renewed up to four times, so good tenants can receive up to £10k towards their deposit to move into home ownership at the end of their tenancy periods with WCH.

Most cases will only be able to afford to access Shared Ownership as their pathway into home ownership and increasingly the only shared ownership units coming through within Westminster are S106 schemes with very high values.

WCH feels that a small programme of five acquisitions targeted in the north of the borough where property prices are lower would provide an opportunity for low-income households to make the move into home ownership without having to leave Westminster. This programme will gauge the popularity of this scheme with AHF funding of £400k (£80k per unit) being made available. If any of the units are not taken up as shared ownership they will be let as Intermediate Rent.

5.4 Across these three schemes the total number of units delivered is likely to be circa 50 units. This along with the 28 spot acquisitions already delivered totals 78

additional affordable units against the original programme of 60 units. WCH are seeking AHF at the agreed unit rate of £250k on the additional 13 new build units and £80k per unit on the five shared ownership acquisitions, in order to deliver these schemes.

- 5.5 In addition to the above, WCH currently has a total of £377k AHF funding not drawn down from two previously approved funding programmes. Following a recent review of WCH's Asset Register it was discovered that five acquisition units from a previous approved programme had not received agreed funding totalling £500k from the AHF. WCH proposes to use the remaining £377k and is requesting approval of the balance of £123k within the £3.773m requested in this report to complete the outstanding sum of £500k.
- 5.6 Subject to the approval of this report, going forward the intention is for WCH to provide the Council an up to date business plan for approval in the near future which will assist the Council to monitor the overall performance of WCH including the delivery of affordable housing provision as set out in this report .

6. Financial Implications

Support for the Provision of New Affordable Units

- 6.1 In April 2019 the Council agreed to allocate £15m of AHF to WCH to deliver 60 affordable housing units. A total of £7m of this sum has been drawn down and applied towards the cost of the acquisition of 28 individual affordable units and the remaining £8m was utilised towards the site purchase cost for both Victoria Wharf (Phase 2) and 581-587 Harrow Road (former MOT Yard) as development sites to deliver a total of 45 affordable units.
- 6.2 A further AHF sum of £3.250m is now requested by WCH towards the cost of the additional 13 units being delivered over and above the original 60 units that were initially agreed (at a rate of £250k per unit) and also a further sum of £400k towards the provision of an additional 5 low cost shared ownership units (at a rate of £80k per unit). In addition, a sum of £2.7m of loan finance is requested from the Council to support the cost of development at Victoria Wharf (Phase 2), Harrow Road and acquisition costs for the shared ownership units. This will increase the total affordable units being delivered across these sites from 60 to 78, all of which the Council will have full nomination rights against.
- 6.3 In addition to the £3.650m AHF requested above, a balance of a further £123k is requested from the AHF which represents £500k previously agreed but not received offset by a balance of £377k approved but not yet drawn down.

Loan Financing into WCH

- 6.4 WCH has approached the Council to request loan financing totalling £2.7m to support the development schemes discussed in para 6.2 above. The Council is constrained by state aid arrangements when agreeing loan financing arrangements with WCH and must ensure that any arrangements are made under commercial terms. Advice provided by the Council's treasury management advisors, Link Asset Management and as set out in Appendix 3, has been used to ensure that the loan terms are state aid compliant.
- 6.5 For this new development loan, the Council as lender requires the scheme to achieve an interest cover ratio of 1.2 once units are built or acquired and fully occupied. The cashflows for the two development schemes and shared ownership purchases collectively have been assessed and the interest cover ratio is projected to be 5.39 upon stabilisation. The ICR then rises steadily over time as inflation increases the rental income returns. This assessment is attached at Appendix 1.
- 6.6 An exercise has also been carried out to ensure that sufficient asset coverage can be secured through legal charges over WCH assets. This has confirmed that there are over 200 units of housing stock which have no charges against them, allowing WCH to comfortably provide the required 150% asset coverage as required under state aid requirements.
- 6.7 Additional loan conditions which have been agreed between WCH and WCC include an annual review of loan terms and that principal repayments should start at scheme completion and continue over the life of the loan.
- 6.8 Annual monitoring will be carried out by the Council as lender to ascertain the loan to value and Interest Cover Ratio for the developments against which the loan financing is being applied. An annual assessment of the company's overall financial performance will also be carried out.
- 6.9 Monitoring will also be carried out by the Head of Affordable Housing and Partnerships to ensure that the AHF allocation is drawn down and applied against the development cost of the 78 units on the agreed development sites and acquisitions for shared ownership. In the event that any WCH affordable housing asset is subsequently disposed or ceases to be used for affordable housing purposes, then there is a requirement that the original AHF grant amount against that asset is either repaid to WCC or transferred to a substitute affordable housing scheme. The substitute property must be approved by the Affordable Housing and Partnerships team. A funding agreement will be drawn up between WCC and WCH

which will set out how the AHF funding will be drawn down and monitored and the circumstances under which the AHF funds would need to be repaid to the Council.

- 6.10 The affordable units agreed to be delivered and the funding being provided is set out in Appendix 2.

7. Legal Implications

- 7.1 Section 1(1) of the Localism Act 2011 introduced the “general power of competence” for local authorities, defined as “the power to do anything that individuals generally may do” and which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area. The generality of the power conferred by subsection (1) is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power.
- 7.2 Section 111 of the Local Government Act 1972 enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any other of its functions, whether involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property
- 7.3 Generally, Section 106 obligations relating to commuted affordable housing payments require the Council to use those funds to provide or secure the provision of affordable housing accommodation in the City of Westminster. WCH have confirmed that the contribution of £3.773m of AHF funding will be used for the solely for delivery of affordable housing through Westminster Community Homes and on this basis approval for provision of AHF funds to WCH is sought. Monitoring of delivery of the affordable housing is set out in 6.9 and will be further detailed in a funding agreement between the Council and WCC.
- 7.4 The provision of this funding by the Council must comply with the UK’s subsidy control regime. This regime superseded EU state aid law following the implementation of Brexit on 31.12.20. There is little statutory or policy guidance at present, but sector commentators agree that the regime is broadly similar to EU state aid law. As such, and as advised by Link in Appendix 3, when entering into the proposed loan agreement the Council will need to ensure that it is on arm’s length open market terms in order to comply with the “Market Economy Investor Principle”.
- 7.5 Where finance is provided specifically in order to fund the provision of affordable housing e.g. through the Affordable Housing Fund, then the Council will be exempted from this compliance requirement, as affordable housing is deemed to

be a “Service in the Public Economic Interest”. As such in relation to the AHF funding, the Council may provide this on a “soft” or grant funding basis.

7.6 The Council has power to enter into the loan agreement under s12 of the Local Government Act 2003 (investment power). In making this investment it must ensure that it complies with its investment strategy and it is also recommended that the Council complies with the provisions of HM Treasury’s Circular 162 of 26 November 2020. In order to comply with this the Council’s s151 officers should confirm that it:-

- is not borrowing in advance of need
- does not intend to buy investment assets primarily for yield

7.7 Section 24 Local Government Act 1988 also gives the Council the power to provide financial assistance relating to the acquisition, construction or management etc of any property as privately let housing where the Council will not be the landlord.

7.8 The Council will need to obtain the Secretary of State's consent under Section 25 Local Government Act 1988 ("Section 25" consent) to exercise this power. The Council will also need Section 25 consent if it wishes to use any other powers (including the General Power of Competence) for the purposes set out in Section 24.

7.9 In addition to this however the Council will need Section 25 consent if it uses the power in Section 24 or any other power for the purposes of or in connection with the matters listed in Section 24(1) to provide any person with a "gratuitous benefit". There are general consents available for the use of these powers which avoid the need for a specific application.

8. Staffing Implications

8.1 There are no staffing implications arising from this report.

9. Consultation

9.1 No Ward Member consultation will be required.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact:

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Email: fc Coleman@westminster.gov.uk*

BACKGROUND PAPERS:

For completion by the **Cabinet Member** for Finance and Smart City

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed:

Date:

Councillor Paul Swaddle, Cabinet Member for Finance and Smart City

State nature of interest if any

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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, Director of Finance and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

Appendix 1 - Financial Summary for WCH Development Schemes

	Victoria wharf 2 £	MOT Yard £	Shared Ownership £	Combined £
Total Scheme Cost	8,795,000	10,000,000	1,895,000	20,690,000
				-
Funding				-
AHF	5,500,000	6,250,000	400,000	12,150,000
GLA	616,000	700,000	-	1,316,000
Sales Receipts			500,000	500,000
Equity	1,500,000	1,500,000	-	3,000,000
Total Funding	7,616,000	8,450,000	900,000	16,966,000
Net Cost	1,179,000	1,550,000	995,000	3,724,000

Interest Cover Ratio for Loan Financing

	20/21	21/22	22/23	23/24
Victoria Wharf				
Gross Rental Income	-	71,370	285,480	285,480
Net Rental Income	-	61,558	246,233	246,233
Interest Cost	-	20,878	32,444	25,816
ICR	0.00	2.95	7.59	9.54
MOT Yard				
Gross Rental Income	-	-	79,950	319,800

Net Rental Income	-	-	68,852	275,409
Interest Cost	192	30,215	48,993	45,196
ICR	0.00	0.00	1.41	6.09
Shared Ownership				
Gross Rental Income	-	15,000	30,900	31,827
Net Rental Income	-	15,000	30,900	31,827
Interest Cost	10,343	41,644	31,635	31,647
ICR	0.00	0.36	0.98	1.01
All Schemes				
Gross Rental Income	-	86,370	396,330	637,107
Net Rental Income	-	76,558	345,986	553,469
Interest Cost	10,535	92,737	113,071	102,659
ICR	0.00	0.83	3.06	5.39

Appendix 2 - Summary of AHF Request from WCH and Units being Delivered

	Units	AHF
Previous Agreement	60	15,000
New Agreement	78	18,650
Increase	18	3,650
	Units	AHF
Units already purchased	28	7,000
Units on Victoria Wharf 2	20	5,000
Units at MOT Yard	25	6,250
Shared Ownership Units	5	400
	78	18,650

Appendix 3 Link State Aid Advice (Exempt)