

# Extraordinary Joint Executive (Cabinet) Committee



<b>Title of Report:</b>	<b>Barley Homes: Interim Business Plan and Changes in Governance</b>	
<b>Report No:</b>	<b>CAB/JT/18/032</b>	
<b>Report to and dates:</b>	<b>Extraordinary Joint Executive (Cabinet) Committee</b>	18 September 2018
	<b>St Edmundsbury Council</b>	25 September 2018
	<b>Forest Heath Council</b>	26 September 2018
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<b>Purpose of report:</b>	In December 2016, West Suffolk Councils agreed a business plan for Barley Homes, the joint venture between Suffolk County Council, St Edmundsbury Borough Council and Forest Heath District Council. On 11 September 2018, Suffolk County Council will consider a report that confirms its commitment to supporting strategic delivery of housing in Suffolk, whilst shifting Barley Homes to a locally-led delivery model. This paper seeks to update Members on the way forward to support Barley Homes in delivering its objectives. The report has been written in the context of the County Council report, and a verbal update will	

	then be provided to Members at respective meetings on the outcome of the County Council discussion.
<b>Recommendations:</b>	<p><b>It is <u>RECOMMENDED</u> that the Joint Executive (Cabinet) Committee recommends to Council:</b></p> <ol style="list-style-type: none"> <li><b>(1) To note the proposal for Suffolk County Council to transfer its ownership of Barley Homes to the West Suffolk Councils, and agrees the terms of the deal as set out in paragraph 2.2 of Report No: CAB/JT/18/032.</b></li> <li><b>(2) Agrees an additional working capital loan facility of £350,000 funded from the Strategic Priorities and Medium Term Financial Strategy (MTFS) reserves and as set out in section 3.4.</b></li> <li><b>(3) A revised total of £7.5 million (currently £6 million) revolving investment facility, to be added to the Councils' capital programme, financed from capital receipts in line with paragraph 3.3.2.</b></li> <li><b>(4) Delegation be given to the S151 Officer and Monitoring Officer, in consultation with the Portfolio Holders for Resources and Performance and Housing to issue equity and loan funding from the revolving investment facility (set out in (3) above) subject to state aid requirements.</b></li> <li><b>(5) The S151 Officer and Monitoring Officer, in consultation with the Portfolio Holder for Resources and Performance, be authorised to negotiate and agree the terms of such loans with Barley Homes and the funding and necessary legal agreements, taking into consideration the Council's loans policy and state aid requirements.</b></li> <li><b>(6) Approval of the Interim Business Plan will constitute consent for Barley Homes to issue shares and enter into debt financing, in line with the Business Plan, be noted.</b></li> <li><b>(7) Update the Councils' medium term financial revenue plans in line with section 3.5.</b></li> <li><b>(8) To agree the proposed shareholder representative arrangements and</b></li> </ol>

	<p><b>authorise the representatives to make all necessary decisions on behalf of the shareholders as required by the Articles of Association and Shareholder Agreement as set out in paragraphs 5.4 to 5.6.</b></p> <p><b>(9) To authorise the Shareholder Representatives to make all necessary arrangements for the purchase of the County Council’s shareholding in Barley Homes, and the consequential governance amendments required to the Company’s Articles of Association and Shareholder Agreement, as set out in paragraph 5.2.</b></p> <p><b>(10) To authorise the Shareholder Representatives to agree the Interim Business Plan, noting that in consequence St Edmundsbury will dispose of its interest in the element of the Town Hall Car Park, Haverhill, subject to development, in accordance with the proposals in the interim business plan contained in Exempt Attachment A of Report No: CAB/JT/18/032.</b></p> <p><b>(11) To note that a comprehensive business case for Barley Homes will be presented to West Suffolk Council in 2019.</b></p> <p><b>(12) Agree for the Council’s Section 151 Officer to make the necessary changes to the Council’s 2018/19 prudential indicators as a result of Recommendation (3).</b></p>
<p><b>Key Decision:</b></p> <p><i>(Check the appropriate box and delete all those that <b>do not</b> apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input type="checkbox"/></p> <p>No, it is not a Key Decision - <input checked="" type="checkbox"/></p>
<p><b>Consultation:</b></p>	<p>This report has been subject to consultation with Suffolk County Council Officers. Briefings were held with Overview and Scrutiny Members on 12 and 13 September 2018 and the outcomes of these sessions will be reported to the Joint (Executive) Cabinet Committee on 18 September.</p>
<p><b>Alternative option(s):</b></p>	<p>These are explored in section 2 of the report below.</p>

<b>Implications:</b>	
Are there any <b>financial</b> implications? <i>If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> <li>Confirmed in section 4a of the report below</li> </ul>
Are there any <b>staffing</b> implications? <i>If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> <li>See 3.1.1(c) below</li> </ul>
Are there any <b>ICT</b> implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Are there any <b>legal and/or policy</b> implications? <i>If yes, please give details</i>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> <li>Confirmed in section 5 of the report below</li> </ul>
Are there any <b>equality</b> implications? <i>If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> <li>Confirmed in section 4d of the report below</li> </ul>
<b>Risk/opportunity assessment:</b>	This is undertaken in section 4b of the report below
<b>Ward(s) affected:</b>	All wards
<b>Background papers:</b> <i>(all background papers are to be published on the website and a link included)</i>	Business Case for Establishment of a Housing Development Company: <a href="#">COU/SE/15/031</a> (SEBC) <a href="#">COU/FH/15/036</a> (FHDC)  Barley Homes – 5 year business plan: <a href="#">OAS/SE/16/028</a> (SEBC) <a href="#">OAS/FH/16/030</a> (FHDC)  Barley Homes Group Annual Report: <a href="#">OAS/SE/18/004</a> (SEBC) <a href="#">OAS/FH/18/004</a> (FHDC)
<b>Documents attached:</b>	<b>EXEMPT Attachment A:</b> Barley Homes Interim Business Plan <b>Attachment B:</b> Options Analysis <b>Attachment C:</b> Risk assessment

## **1. Key issues and reasons for recommendation(s)**

### **1.1 Context**

- 1.1.1 The West Suffolk Strategic Plan establishes the firm commitment of West Suffolk Councils to increasing and improving provision of appropriate housing. The Strategic Plan confirms that we will achieve this through a number of means: as the local planning authority; as a regulator; as a local influencer, and as an investor. The Strategic Plan also sets out how delivery of the Barley Homes business plan will support our ambition in housing, and the income generated from housing sales and rental will support the councils to increase their financial self-sufficiency.
- 1.1.2 Barley Homes was established by Suffolk County Council, Forest Heath District Council and St Edmundsbury Borough Council and incorporated in March 2016. It was the first County-District tier joint housing venture of its kind in the country. Each of the two West Suffolk Councils own 25% of the company, whilst Suffolk County Council is a 50% shareholder. A five year business plan was agreed in December 2016, identifying four potential sites for the company to develop. The recommendations at that time provided Barley Homes with a revolving loan facility and funding to enable developments to progress.
- 1.1.3 Since this time, the company has progressed work towards achieving this business plan. In March 2018, Members of the Overview and Scrutiny Committees received the Barley Homes Annual Report and noted their concern regarding the deliverability of the business plan given progress to date and, in particular, the decision of Suffolk County Council to undertake an open market sale of the Wamil Way, Mildenhall site rather than disposing of the site to Barley Homes, with the consequence that only three sites remained in the Barley Homes plan. The complexity of operating between the Councils and, in particular, meeting the policy and financial objectives of all parties has proved difficult. Therefore all parties have agreed that it would be more effective and efficient for the County Council to focus on its wider strategic role in the delivery of housing in West Suffolk, whilst the West Suffolk Councils lead on local scheme delivery.
- 1.1.4 On 11 September 2018, Suffolk County Council will consider a [report](#) that recommends its withdrawal from Barley Homes and proposed the transfer of its interest to the West Suffolk Councils. The report highlights that Barley Homes has been a useful opportunity to learn about the respective roles, strengths and weaknesses of a County and District-tier Councils working as a joint housing company. Importantly, the report states that "It is clear that the County Council has a role to play to support housing delivery while the Borough and District are better placed to lead on local delivery, place shaping and meeting the housing needs of their local communities". The West Suffolk Councils support this approach.
- 1.1.5 In withdrawing from the company, the County Council report also highlights the opportunity to reduce the complexity of the governance, bureaucracy and duplication that can arise when working with three organisations, and enable West Suffolk Councils to focus on local policy objectives and local

delivery and Barley Homes having the direction and pace required to bring the sites forward.

- 1.1.6 Given the stated intention for Suffolk County Council to withdraw from Barley Homes, and previous feedback from Members regarding deliverability of the business plan, this report makes recommendations for the West Suffolk Councils to gain 100% ownership of the company and to enable site developments through loan and equity financing to ensure deliverability of the interim business plan. In doing so, this report also evaluates the opportunity to review the rationale and operational arrangements for Barley Homes.

## 1.2 **Current Position**

- 1.2.1 As set out above, Barley Homes is identified as a key mechanism to deliver the Councils' objectives to support delivery of housing in West Suffolk and supporting our financial resilience through generating income and dividends for the shareholding Councils – enabling us to behave more commercially and become more financially self-sufficient.
- 1.2.2 This fundamental purpose was a core part of the rationale to create Barley Homes in 2015. Subsequently, the external drivers underlying that rationale have continued to increase. The Government has continued to encourage local authorities to be a driving force in supporting housing development in their area, whilst reducing funding to support local councils. Locally, and nationally, house prices have continued to rise. This suggests that it is still right to explore all options available to secure new, quality housing in West Suffolk – including a development company.
- 1.2.3 Barley Homes has continued to progress development plans on three sites, as follows:

**Haverhill Town Hall Car Park (owned by St Edmundsbury)** – a planning application has been submitted for this site, to deliver 14 homes for market sale (of which four will be affordable). The application is expected to be considered in November 2018 and if approved, work on site is expected to start in April next year with completion in May 2020.

**Westfield School Site, Haverhill (owned by Suffolk County Council)** – revised site layouts have been considered by both planning and highways, and a public consultation held throughout the summer (including specific liaison with local members and the Town Council). It is expected that a planning application is imminent for 37 homes, which includes 11 affordable properties. If approved, work would be expected to proceed next summer.

**Castle Hill School Site, Haverhill (owned by Suffolk County Council)** – the site requires a development brief, which (following advice from planning) is being progressed alongside development of the planning application. It is expected the brief and application would be considered next summer, with work to commence on site in the autumn if approved.

- 1.2.4 Should planning permission be granted, Barley Homes will reach a critical point, in that it would need to formally purchase the sites from the owners, and enter into contracts to enable the construction works to progress. It is important to ensure that this work is undertaken with a clear commitment from shareholding Councils to ensure there is momentum to enable delivery, clarity on how benefits will be realised, and a robust governance and financing structure to ensure contractors have confidence in engaging with Barley Homes.
- 1.2.5 Work has been undertaken to assess future developments that may be available in the long term to Barley Homes; this includes assessment of surplus sites held by partners, sites that will be released as a result of One Public Estate programme, or sites available on the open market. This assessment is still in formative stages and will require further, detailed examination before formal consideration for inclusion within a final business plan due to be presented to the West Suffolk Council in 2019.

## 2.1 **Proposed Way Forward**

- 2.1.1 The West Suffolk Councils have reached an agreement in principle in respect of the terms under which the County Council would withdraw from Barley Homes, and the financial settlement entailed. This is further explored in section 2.2 below. Members are asked as part of considering the recommendations contained in this report to take into account these terms. This settlement would, in officers' view, allow Barley Homes to continue to progress two sites owned by Suffolk County Council, realising the benefits associated with such developments – primarily a financial return and delivery of housing on the sites.
- 2.1.2 Given the ongoing rationale to support housing and generate a financial return, officers have examined the potential options for Barley Homes, as set out in Appendix B below. Barley Homes has progressed each site, and the option for withdrawal from Barley Homes has been discounted given the level of investment already undertaken, and the significant potential for missed opportunities in the future if withdrawal takes place at this stage without the opportunity to fully explore all options and how Barley Homes may operate in the future.
- 2.1.3 It is therefore recommended that an interim business plan is agreed, whilst a more comprehensive review is undertaken. This will allow work to progress, whilst affording the opportunity to identify what the role of Barley Homes may be in the long term, options regarding delivery models, and the resources required to support the long term vision. It is intended that the outcomes of the long term review would be presented to West Suffolk Council in 2019.

## 2.2 **Terms for acquiring shares and becoming 100% shareholders in Barley Homes**

- 2.2.1 Officers have been discussing the terms for the transfer of shares from Suffolk County Council to the West Suffolk Councils and how the existing

work will be taken forward. It is proposed that the Barley Homes (Group) Ltd brand will remain and continue with the new ownership.

- 2.2.2 The three sites which Barley Homes has been working on (Town Hall, Westfield and Castle Hill – Haverhill) have been 'agreed in principle' with land agreements (minimum land values + overage, capped at original business plan values) contained in the Business Plan agreed by the shareholding councils in December 2016. It is proposed that these agreements will remain, including the commitment for the necessary land swap arrangement (between Suffolk County Council and the West Suffolk Councils) to deliver the current proposed site layouts and access.
- 2.2.3 Based on the latest site appraisals carried out by Barley Homes, and independently scrutinised, and used as the basis for a revised Business Plan minimum and maximum land values have been agreed for Westfield and Castle Hill with the County as the landowners using an agreement comprised of minimum value + overage. This approach has been developed specifically for these County Council sites given the preparation completed to date.
- 2.2.4 The land values contained at Table 1 below are anticipated to be paid to Suffolk County Council as the landowning council. The maximum land values are in line with the original business plan values. The values contained in this table have been the subject of an external land valuation to ensure our section 123 best value obligations can be met.

**Table 1: Return to Suffolk County Council from owned sites**

Site	Westfield	Castle Hill
Assumptions	37 Housing Units - 26 Open Market / 11 Affordable	25 Housing Units - 18 Open Market / 7 Affordable
Minimum Land Value	£ 539,756	£ 450,557
Maximum Land Value (through overage)	£ 819,000	£ 747,000

- 2.2.5 The Land Agreements for the two County sites, (Westfield and Castle Hill) will be subject to Stage 1-3 profit calculation of Barley Homes on an individual site basis as follows:
- Stage 1 - Barley Homes retain 10% profit on market value sales (0% on affordable housing sales) less corporate costs (maximum amount to be agreed) less corporation tax.
  - Stage 2 - above stage 1 to be remitted to landowner up to the maximum land value.
  - Stage 3 - Any amounts above that maximum land value (stage 2) will be retained by Barley Homes



- 2.2.6 Land agreements would be specific to individual sites and the process would operate on an open book accounting basis, meaning that it is just for that site to perform in order to achieve the additional value rather than looking at an overall profit level for Barley Homes. This will provide assurance around the achievement of the maximum land values for the County as part of the development of their two sites.
- 2.2.7 Barley Homes, via additional loan facilities from the West Suffolk Councils will also settle in full (including interest) the Suffolk County Council outstanding loan balance (currently £250,000). This means that the County Council will recoup in full its initial investment and will not bear any of the risk of future development through Barley Homes, those risks will remain in full with the West Suffolk Councils alongside the benefits set out in section 3 below.
- 2.2.8 The County Council will continue to work with West Suffolk Councils on land and asset projects in line with One Public Estate principles. Suffolk County Council housing sites in West Suffolk will be offered to Barley Homes, subject to price and consideration of planning policy requirements.

### **3. Implications and opportunities of the becoming 100% shareholders in Barley Homes**

#### **3.1 Financial Implications of the Councils becoming sole shareholders of Barley Homes**

3.1.1 There are a series of ways in which the Councils will be have a greater financial benefit of being sole shareholders of Barley Homes. Notably:

- a) Distributions of profit made by Barley Homes through dividends.** Barley Homes will derive a profit through sales of the houses it develops. These profits, net of tax, would be distributed to the Councils as shareholders as dividend payments. St Edmundsbury and Forest Heath's share of these profits would collectively increase from the current 50% share to 100% if they became sole shareholders. The financial benefit set out section 3.5 assume 100% shareholding across the West Suffolk Councils.
- b) Interest on loans to the Company.** The Councils would need to increase the level of loans it made to Barley Homes, to enable them to pay for construction of the homes. As these loans would need to be at a commercial rate to be compliant with State Aid regulations, and would therefore be likely to attract a margin over the Councils own cost of borrowing, the additional level of lending would generate higher interest receipts.
- c) Purchase of services from the Councils.** Barley Homes will need to purchase services such as housing development expertise, legal, HR, financial or IT support from the Councils at a market rate. The assumption has been made that the West Suffolk Councils will be able to support these services from within existing staff resources, which will lead to an income being generated for the councils (these are currently supplied by Suffolk County Council)

3.1.2 The business plan gives details of what some of these revenue benefits for the West Suffolk Councils might be. These values have been compared to what has currently been assumed with the Medium Term Financial Strategy (MTFS) and amendments are proposed accordingly.

### **3.2 Financial Viability of proposed developments by Barley Homes**

3.2.1 The three initial development sites that are being pursued by Barley Homes have all had viability appraisals (independently scrutinised) carried out. The attached interim Barley Homes business plan, at Exempt Attachment A, details the site viability appraisals undertaken.

3.2.2 The overall interim business plan for Barley Homes is financially viable. There are however challenges unique to each site that will continue to be reviewed as planning is progressed. For example the Town Hall car park site, given the need to achieve a planning policy compliant scheme as specified by the land owning council, creates viability challenges based on existing appraisal assumptions. However the three sites work as a package for Barley Homes in terms of synergises around construction contracts and delivery and overall financial viability is achievable.

### **3.3 The Councils as Funders**

3.3.1 Barley Homes has no financial resources to pay for the construction of the homes, and will be relying on the Councils to lend them money or, in the event the Councils don't, through private financing. If St Edmundsbury and Forest Heath become the shareholders of Barley Homes, the level of exposure the Councils will have in Barley Homes will increase. This will make it more important for the Councils to assess Barley Homes' viability as an entity and the viability of each scheme for which loan funding will be sought.

3.3.2 Currently, St Edmundsbury and Forest Heath have £3million each (£6million total) allocated in their capital programmes to support Barley Homes. This is on top of the current working capital loan (totalling £250k across the West Suffolk Councils). The expected maximum financial commitment that Barley Homes would need to deliver the initial 3 sites is just over £7million in 2020/21. It is therefore required that each council increase its capital budget allocation to £3.75million (£7.5million total) in order to be able to fully support Barley Homes in the delivery of these sites. It is proposed that this is all funded initially from unallocated capital receipts and on its repayment that unallocated capital receipts reserve will be replenished (noting that the current £6m was always envisaged to be funded from capital receipts).

3.3.3 The Funder Role also incorporates regular monitoring and analysing financial information generated by the Company during the lifetime of each loan to ensure that the Company is not in breach of key financial requirements which would be stipulated as funding conditions for each loan.

3.3.4 In order to comply with state aid and HMRC tax rules, the investment works on an equity investment (as unsecured shareholder capital) of 35% and a loan investment (secured, attracting a commercial interest rate) of 65%.

3.3.5 A new accounting standard has recently come into force, which means that councils have to make provisions for potential losses they may incur if any loans they make default, or if the value of any shares they have reduce in value. Although our initial view is that losses would not crystallise here, in order for this not to have an impact on the general fund budget, these loans need to be fully financed from capital receipts as outlined in 3.2.2 above.

### 3.4 Provision of working capital

3.4.1 To date Barley Homes has taken out working capital loans with the three current shareholding councils totalling £500,000 (the current maximum working capital loan total). This is split on the current shareholding share (i.e. 50% SCC - £250,000; 25% SEBC - £125,000; 25% FHDC - £125,000). This is an unsecured loan agreement and is accruing interest at an 8% rate of return.

3.4.2 Current shareholders have committed to provide the existing facility until the shareholding ownership has formally changed. It is envisaged that a further working capital loan balance is provided to Barley Homes to enable them to get to the delivery phase of the initial identified sites before the development funding is utilised. It is estimated that a further sum of £100,000 is requested – proposed to be funded from the Council’s Strategic Priorities and Medium Term Financial Strategy reserve.

3.4.3 If St Edmundsbury and Forest Heath become the shareholders of Barley Homes, and as part of the terms set out in section 2.2. above, then they will need to provide the equivalent working capital loan facility to Barley Homes to enable the company to repay the Suffolk County Council’s element of the working capital loan, including the interest accrued on that loan. It is proposed that this is funded from the Council’s Strategic Priorities and Medium Term Financial Strategy reserve.

3.4.4 The table below sets out a summary of the working capital loan balances now required for Barley Homes as a result of this paper and the original business plan and its proposed funding:

	SEBC	FHDC	SCC
Current working capital loan balances	125,000	125,000	250,000
Re-payment of SCC working capital loan	125,000	125,000	( 250,000)
Additional working capital loan requirement	50,000	50,000	
<b>Total Working Capital Loan Requirement</b>	<b>300,000</b>	<b>300,000</b>	<b>-</b>
<b>Funded from Strategic Priorities &amp; MTFs Reserve</b>	<b>( 300,000)</b>	<b>( 300,000)</b>	<b>-</b>

3.4.5 Appendix C of Attachment A (interim business plan) includes a breakdown of expenditure that has been funded from the working capital loans to date.

### 3.5 Impact on Medium Term Financial Strategy

- 3.5.1 The original business plan had returns being generated to the West Suffolk Councils that totalled just over £1.9m over a 5 year period. This was for their 50% cumulative share. Since the original business plan was put together, one of the four initial sites (Wamill Court) was removed from Barley Homes which had an impact on the returns that could be generated. The West Suffolk Councils medium term financial plans were amended as part of the 2018/19 budget process to reflect this change.
- 3.5.2 The most recent site appraisals – detailed in the attached interim business plan – show significantly lower returns as a result of the challenges set out in the interim business plan – mainly significant increase in cost of construction, than was in the original business plan, in terms of projects and potential land values depending on the overage outcome. If the West Suffolk Councils were to become the sole shareholder, they would be in receipt of the full dividend payments (via profits) from Barley Homes. This increase in shareholding would mean that the current MTFs figures could be achievable despite the reduction in the overall profitability of the three sites.
- 3.5.3 The table below shows how the financial position has changed from the assumptions set out in the current medium term financial plans and as a result of this report. It is proposed that through the current 2019/20 budget process that the returns are updated in line with this table, however the additional benefit in 2020/21 is transferred to the strategic priorities and Medium Term Financial Strategy reserve and is reviewed as part of the 2020/21 budget process.

Impact on MTFs - West Suffolk Councils (100% share)	2018/19 £000	2019/20 £000	2020/21 £000	2021/22 £000	TOTAL £000
Current Medium Term Financial Strategy	( 38)	( 382)	( 1,056)	( 114)	( 1,590)
Interim Business Plan figures:					
Interest	( 30)	( 185)	( 250)	( 36)	( 501)
Dividends	-	-	( 900)	( 113)	( 1,013)
	( 30)	( 185)	( 1,150)	( 149)	( 1,514)
Change from Current MTFs (positive) / negative	8	197	( 94)	( 35)	76

## 4. Risk Implications

- 4.1 Both the original business case to create Barley Homes, and the subsequent five year business plan, identified specific risks alongside the opportunities that Barley Homes creates.
- 4.2 The risk assessment undertaken at that time has been updated, and included at Attachment C to this report.
- 4.3 The transfer of shares of Barley Homes between Suffolk County Council and the West Suffolk Councils does not create risk in itself, albeit it does mean that it is possible that West Suffolk Councils have to bear some additional cost / implications should a risk materialise. However, to compensate for this, over the longer term West Suffolk Councils may also see a greater

share of the rewards of development arising and efficiencies in the creation of a single layer of governance, administration and overheads.

## **5. Governance Implications**

- 5.1 The Council has sought legal advice from Trowers and Hamlins regarding the changes required to enable the Councils to continue operation of the Barley Homes. Trowers and Hamlins were responsible for advising the Councils previously when the company was established, and are recognised nationally for their work in supporting Councils to form housing development company.
- 5.2 The necessary work for Suffolk County Council to transfer their shareholding to Forest Heath and St Edmundsbury is straightforward. The SCC shares will be sold equally to the two Councils, and on the same day, the Shareholder Agreement (setting the relationship between the Councils and the company), and the Articles of Association (the rules of the company), will be amended by the Directors and the Shareholders Representatives. The shares would be purchased equally by the two West Suffolk Councils (25 of the £1 shares purchased by Forest Heath, and 25 of the £1 shares purchased by St Edmundsbury)
- 5.3 The change in ownership of Barley Homes triggers the opportunity to review the governance arrangements of the company, which were specifically created to support a joint venture company of three partner owners and the company. It offers the opportunity to revisit these arrangements, albeit recognising that the governance structure employed may be temporary until a longer term business plan is formed, and the advent of West Suffolk Council next year creating a more straightforward structure of one shareholder, and one company.
- 5.4 The relationship between Councillors and Officers, and Shareholders and Directors is not dissimilar. Shareholders agree the purpose of the company, and commission the Directors to deliver that purpose. With this in mind, as with many other Council-owned companies, it is proposed that the Directors will be officers of Forest Heath and St Edmundsbury Council, who are appointed by the Joint Chief Executive of West Suffolk Council.
- 5.5 The establishment and operation of Council owned companies is properly a matter of the Executive, albeit it is the Council who is the shareholder. It is therefore proposed that a sub-committee of the Joint Executive acts as the Shareholder Representatives, in making shareholder decisions on behalf of the Company; this would be composed of the Portfolio Holder for Housing; the Portfolio Holders for Resources and Performance, and the Leaders of the Councils.
- 5.6 The new shareholders representatives will meet quarterly with the Directors to assess the company's progress in meeting its objectives in the business plan; the Chairs of the Overview and Scrutiny Committees and Performance and Audit Committees would be invited to the meetings. In addition, on an annual basis, the shareholder representatives would meet for the Company's General Meeting, to receive the annual report of Barley Homes, the statement of accounts and any other matters required. All members would be invited to be in attendance at this meeting and are welcome to contact

shareholder representatives or lead officers of the council if they have any questions about the operation of the company, in addition to the regular communications provided.

- 5.7 As above, it is likely that these arrangements will be revisited as a result of the new business plan next year. For example, the current Articles of Association provide the opportunity to appoint independent directors, who have no current association with the Council, but offer relevant skills and experience to the company. It is not proposed to appoint independent directors until the new business plan creates the opportunity to assess what skills and experience would be best for the company to deliver its long-term vision. In the meantime, the company would continue to commission and contract the relevant expertise required to deliver the sites, most crucially the Development Management role. This is detailed further below.

## **6. Delivery Implications**

- 6.1 The proposed interim business plan for Barley Homes is attached at Exempt Attachment A.
- 6.2 A development manager remains contracted to progress the developments through the planning permission stages and to the point where contractors can be procured to develop the sites if permission is granted. Specific, specialist contractors have been procured to advise on contractor selection, planning agents, architects and other specialists.
- 6.3 As the interim business plan identifies, the change in share ownership will not impact on the contracting position of the company, nor on progression of the sites. This plan has been developed to enable a clear framework under which Barley Homes can progress with delivering the sites, building on the previous five year business plan agreed in 2016.
- 6.4 Both the interim business plan, and this report, have identified that Barley Homes proposes to develop a more comprehensive business plan to clarify its long term vision; identify sites for development, and clarify how the business model and governance arrangements should evolve to accord with the future vision. Alongside this will be consideration of the long term resources required to support delivery, including specialist skills, and options to procure such resources (for example, employment of specific staff, or through contracting). This final business plan is due to be presented to the West Suffolk Council in 2019.

## Attachment B: Options Analysis - supporting housing delivery through Barley Homes

Option	Advantages	Disadvantages
(1) Withdraw from Barley Homes	<ul style="list-style-type: none"> <li>• May allow Council to focus on other programmes / projects</li> <li>• Do not incur risks associated with development</li> <li>• Leave options open for the sites – timing of development, or undertake open market sale</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of time and resources (including across the current three owners £500k of potential abortive costs) already invested in Barley Homes</li> <li>• Do not realise the expected development profit to support the MTFS</li> <li>• Do not deliver additional housing within West Suffolk and realise the benefits of growth to support strategic plan</li> <li>• Loss of ability to influence development of County Council owned sites</li> <li>• Opportunity to develop future sites or delivery models may be missed and levels of benefit to West Suffolk Council reduced</li> </ul>
(2) Pause development until West Suffolk Council created	<ul style="list-style-type: none"> <li>• Allows West Suffolk Council the opportunity to set strategic direction</li> </ul>	<ul style="list-style-type: none"> <li>• Delays progression of benefits</li> <li>• Alternative route (below) offers opportunity to progress whilst undertaking wider review for West Suffolk</li> <li>• Would need to discuss further with Suffolk County Council regarding their sites and risk that they may wish to sell on the open market.</li> </ul>
(3) Enter a new Joint Venture with third party	<ul style="list-style-type: none"> <li>• May provide opportunities to benefit from new party's expertise and resources</li> </ul>	<ul style="list-style-type: none"> <li>• Sharing risk with third party also means sharing rewards</li> </ul>

	<ul style="list-style-type: none"> <li>• Opportunity to share risk with third party</li> </ul>	<ul style="list-style-type: none"> <li>• Dilution of control and influence with a third party</li> <li>• Time required to assess options, procure joint venture partner and ensure decision making pathways followed</li> </ul>
(4) Establish temporary position (interim business plan with change of ownership) whilst assessing long term future of Barley Homes	<ul style="list-style-type: none"> <li>• Allows developments to progress whilst realising benefits and learning from experience</li> <li>• Allows Barley Homes to support development of Suffolk County Council and West Suffolk Council sites</li> <li>• Allows for long-term thinking on future of Barley Homes group</li> </ul>	<ul style="list-style-type: none"> <li>• Need to ensure clarity and deliverability of temporary position</li> </ul>



## Attachment C: Risk Assessment

Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
	Low/Medium/ High*		Low/Medium/ High*
Business Plan insufficiently robust / not tested	High	<p>The revised values have been produced based on independent advice received by Barley Homes (This has been updated using latest construction cost and market value estimates) alongside additional external advice commissioned by Forest Heath and St Edmundsbury Councils, including cost consultants and valuation services.</p> <p>Given nature of the housing market, the risks associated are inherently high, however regular reviews of development appraisals will be carried out by Barley Homes to monitor the overall risk level, as the scheme progress through planning and development.</p>	Medium
Insufficient regular monitoring of performance of Barley Homes against Business Plan by shareholder councils	Medium	<p>The report sets out the proposed council governance arrangements for Barley Homes, in particular proposing robust quarterly reviews of progress.</p> <p>Internally, a lead "client" officer (from St Edmundsbury / Forest Heath) undertakes day-to-day liaison with Barley Homes directors to ensure work is progressed and works collaboratively with Barley Homes to address potential barriers to achievement</p>	Low

Insufficient expertise to ensure achievement of best value in property construction	Medium	A development manager has been appointed by Barley Homes to provide specific, specialist support. The costs of this post have been factored into the business plan.	Low
Adverse movements in the housing market, such as property sales and/or rental price deflation, higher than anticipated building cost inflation, leaving the Company committed to unviable schemes	Medium	Building costs and potential sales values are subject to regular, ongoing monitoring to ensure sites remain viable. It will be critical that Barley Homes enters into a development contract which provides the right balance between cost certainty and allowing for some fluctuation in market demand.	Low
Uncertainty over the impact upon the construction and housing market post EU referendum	High	Sensitivity analysis included in original Business Plan and up to date costs and income sensitivity analysis included within the interim business plan.  Given the nature of the Brexit position, this risk will remain higher given the lack of overall control by Barley Homes.	Medium
Failure of Barley Homes and loss of shareholder capital and loans	Medium	The business plan has been subject to robust examination to ensure that figures remain viable.  In practice, it is likely that there are a degree of options were Barley Homes to fail. For example, assets of the company could be sold to recoup potential losses. As such, the main risk is in the failure to deliver the potential benefits – generating income to support the Council’s MTFS. This will be subject to ongoing monitoring to ensure Barley Homes are progressing delivery.	Low

Barley Homes is challenged over its financial make up in the market	Medium	Funding proposals are based on advice obtained around state aid and HMRC rules compliance.  Barley Homes is structured as a commercial company. This is now a well-established delivery model for Councils across the Country who have not faced such challenge.	Low
Council receives less than market value for the land	Medium	Site viabilities have continued to be tested throughout development of the interim business plan and external valuation services advice received.	Low
Council relies on returns from Barley Homes which are not sustainable in the future	Medium	It is proposed to develop a more long term business plan for Barley Homes in 2019, to enable examination of the potential options for development and delivery model in the future. It is proposed that the additional benefit from holding a greater share in Barley Homes is transferred to the strategic prioritises and Medium Term Financial Strategy reserve and is reviewed as part of the 2020/21 budget process	Low