

REPORT TITLE: ESTABLISHING A LOCAL HOUSING COMPANY

10 JULY 2023

REPORT OF CABINET MEMBER: Councillor Chris Westwood, Cabinet Member for Housing

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WARD(S): ALL

PURPOSE

Providing *Homes for all* is a key priority within the Council Plan, which includes supporting households who struggle to access affordable longer-term market housing. To support this priority the council has established a wholly owned local housing company, Venta Living Ltd.

This report brings forward the final financial business plan for consideration required under the shareholder agreement with Venta Living Ltd, with an illustrative business model based on leasing 41 new flats in Winnall. It is underpinned by an alternative leasing model that is considered to be the most economically advantageous for both the council and Venta Living Ltd and on balance, carries less risk than the model originally proposed for the general fund, but more for the HRA.

The business case allows for future leasing opportunities to be considered on a case-by-case basis and fulfils the council's commitment to the community to ensure a greater diversity of tenure on the Winnall estate.

Approval of the proposed financial business plan and reserved matters will allow Venta Living Ltd to commence trading subject to agreement by full Council.

RECOMMENDATIONS:To Cabinet Committee: Housing:

1. To approve the draft financial business plan at Appendix B in the exempt part of the agenda and refer to full Council for consideration.
2. Subject to approval of the financial business plan by full Council, to authorise the Strategic Director with housing responsibility to:
 - a) Finalise the lease of one block of 41 one-bedroom flats at Winnall from the council to Venta Living Ltd.
 - b) Approve General Fund capital expenditure of £150,000 for the equity investment in Venta Living Ltd by the council, which is a sufficient level of funding for working capital purposes.
3. To authorise the soft marketing of the units at Winnall by Venta Living Ltd so tenancies commence with the minimum of delay following completion subject to full Council agreeing the reserved matters.
4. To refer approval of appointment of Fiander Tovell Ltd as external auditors to full Council.

To Council:

1. To agree the financial business plan as recommended by Cabinet Committee: Housing.
2. To approve the appointment of Fiander Tovell Ltd as external auditors to Venta Living Ltd as recommended by Cabinet Committee: Housing.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

- 1.1 The establishment of Venta Living Ltd supports the following Council Plan priorities:
- a) Tackling the climate change and creating a greener district – the Winnall flats are designed to be highly sustainable. Their convenient location within the city supports the Council Plan objectives to promote walking, cycling and use of public transport.
 - b) Homes for all – meeting local need through a wider range of tenures.
 - c) Vibrant local economy – supporting working households to live and work in the district.
 - d) Your service, your voice – better options for renting in response to survey feedback¹ from younger households.

2 FINANCIAL IMPLICATIONS FINANCIAL IMPLICATIONS

- 2.1 The latest iteration of the company leasing model is presented in the business case. The financial impact of this is shown in the exempt Appendix B within this report.
- 2.2 This new leasing model, which is materially different from that previously presented in December 2022 (CAB3366), is now based on the company managing the properties and the lettings; with the council retaining responsibility for the building, its maintenance and fixtures and fittings. Venta Living Ltd will let the properties and collect the rent, deduct from this a percentage of the gross rent receivable to cover its costs of management and overheads, passing the net rent receivable after these deductions to the council as a lease payment.
- 2.3 The reasoning behind setting the deductible amount as a percentage of the gross rent receivable is that it will provide more certainty to Venta Living Ltd about the amount it will receive to fund its operations each year. This allows the company's costs to increase with rental growth but provides comfort to the council that these costs are controlled. In year one there will be additional costs incurred in setting up the company and establishing the lease rental business, and the amount of deductible expenses will be c.29% of the gross rent income receivable, but from year 2 the deductible amount will be c18% ongoing.

¹ Young Persons survey – WCC, 2022

- 2.4 The table below shows the summarised estimated financial position of Venta Living Ltd over the 30 years of its business plan. This shows that as the lease payment is essentially the net cash flow after deducting operating expenses that the model essentially does not make any material profit or loss for the company. Projected cumulative retained profit for the company over the 30 years of the lease is just £9k. The projected profit will be subject to corporation tax and is essentially just the interest earned on bank balances and an amount set aside for the allowance for doubtful debts.

b) Income and Expenditure Account										
	2024/25	2025/26	2026/27	2027/28	2028/29	2033/34	2038/39	2043/44	2048/49	2053/54
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
	1	2	3	4	5	10	15	20	25	30
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Income	350	453	462	471	480	530	585	646	714	788
Expenditure	(350)	(453)	(462)	(471)	(481)	(531)	(586)	(647)	(714)	(789)
Profit Before Interest & Charges	0	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(1)
Loan Interest Payable	0	0	0	0	0	0	0	0	0	0
Interest Receivable	1	1	1	1	1	1	1	1	1	1
Interest & Charges	1	1	1	1	1	1	1	1	1	1
Profit Before Taxation	1	0	0	0	0	0	0	0	0	0
Corporation Tax	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Profit/(Loss) after Taxation	1	0	0	0	0	0	0	0	0	0
Dividends	0	0	0	0	0	0	0	0	0	0
Profit/(loss) for the Year	1	0	0	0	0	0	0	0	0	0
Retained Profit/(Loss)	1	1	1	2	2	4	5	7	8	9

- 2.5 The business model transfers the financial risk to the HRA of rent loss through voids, with the company retaining responsibility for income collection and bad debts. The sensitivity of changes in the key drivers of voids, costs and income have been undertaken on the model these show the following impact on the HRA over a 30-year period.

Change in Assumptions	1.0%	2.0%	2.5%	3.0%	4.0%
	£000	£000	£000	£000	£000
Increase in Voids	12	48	0	-84	-119
increase in costs	173	0	-203	-359	-791
increase in rents	-805	0	359	826	1,909

- 2.6 The Venta Living Ltd business plan is presented in UK GAAP (Generally Accepted Accounting Practice) format (the basis on which the company will publish its financial reporting) but for incorporation in the council's group Financial Statements, the accounts will need to be converted to an IFRS (International Financial Reporting Standards) basis. There are significant differences between the two accounting methodologies. IFRS 16 *Accounting for Leases* introduces a single accounting model for all leases. Although it doesn't change the treatment for the council as lessor, it still receives the annual lease payment, it changes the way it is presented within the accounts of the lessee, Venta Living Ltd. The net present value of the future lease payments under IFRS is recognised and accounted for on the company balance sheet with both a lease liability and a 'right of use' asset. The right of use asset is depreciated over the life of the lease and the lease liability increased by the implicit financing interest costs and reduced by the actual lease payments. In the Income and Expenditure account the depreciation costs and financing costs now replace the lease payments seen in the UK GAAP format. As a result of the accounting involved the income and expenditure costs are front loaded in the early years. It will show a loss in the early years but the bottom line across after 30 years of the lease is identical. There is no impact on the Corporate Tax liability or on the cash flow of Venta Living Ltd.
- 2.7 The council's current policy is to set rent for the affordable property at 70% of market rent or LHA if lower. The assured shorthold tenancies will be let at market rent and the long-term projected level of cost deduction in managing the lettings is c.18% of net rent receivable. The council has received external advice that it is normal in valuing such an arrangement to see costs deducted of around 20% of gross income receivable.
- 2.8 The HRA will be financially better off than if it had managed the development as affordable housing. This is illustrated in Appendix E which shows the HRA is estimated to be £3.5m better off through this arrangement at the end of the leasing period.
- 2.9 This new model substantively shifts the operating risks of under occupancy and future rent risk, as well as the cost of major works and repairs from the company (wholly owned by the General Fund) to the HRA. The costs now falling on the General Fund are the costs of the equity investment, and any losses made by Venta Living Ltd. However, as Venta Living Ltd receives a proportion of the gross rent income receivable towards its costs and these are based on reasonable assumptions, it is unlikely that material losses will accrue under this new leasing model.
- 2.10 In addition, the General Fund makes a 5% margin on any support services it provides directly to Venta Living Ltd, although as illustrated at Appendix D, this amounts to only £25k over the 30-year lease period.

- 2.11 The risk and responsibility for rent collection will remain with Venta Living Ltd, who will have a bad debt provision of 2% within their retained funds to cover this element.
- 2.12 As the net rent receivable forms the basis of the lease payment to the council the model has minimal exposure to corporation tax, which is now only paid upon interest received on the equity investment. The projected company position at year 30 is essentially a breakeven position with a small surplus of just £9k.
- 2.13 It is further proposed that the company deductibles are kept to c.18% of gross income receivable within the lease as a mechanism to ensure effective control of company costs and to give the company certainty over its funding.
- 2.14 The level of working capital required is lower than previously anticipated, it is now calculated that to provide sufficient working capital for Venta Living Ltd will require an equity investment of £150k.
- 2.15 The equity investment will qualify as financial assistance within the terms of the Minimal Financial Assistance exemption under the Subsidy Control Act which limits such assistance to £315k in any three-year period. Consequently, there will be an administrative requirement to comply with the statutory notifications required under the Act between the council and the company.
- 2.16 There is a risk that any sum over £85k invested in the company and subsequently deposited in a UK bank will be at risk of loss if the bank goes into liquidation.
- 2.17 Importantly there is also a potential risk and impact on the General Fund through the VAT treatment on expenditure that now falls upon the council to incur. Under the new arrangement the VAT incurred on providing building maintenance, building services and fixtures and fittings will be an exempt supply. This will score against the council's 5% partial exemption limit, which if exceeded in any financial year will result in a loss of the whole amount c.£500k.
- 2.18 The likely projected annual additional costs of building services and reactive repairs is around £75k and the VAT recoverable will be 20% of this amount. At present, the council is at around 2.6% of the 5.0% limit. As this is likely to be ongoing and not a one-off it will in turn limit the council's available headroom to undertake any other exempt supply activity in the future. However, in later years if and when material major works are required, a mitigation would be to terminate the lease and return the properties to the HRA.
- 2.19 The proposed leasing structure model works for the rental of the Winnall block of 41 units however, the combined impact of the Subsidy Control Act and the risk upon the council's 5% VAT partial exemption limit mean that the company's ability to replicate future growth through the use of this leasing arrangement is materially and permanently constrained.

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 In response to external legal advice, a turnover or pass through lease model will be used for the lease of the block of 41 one-bedroom flats at Winnall from the council to Venta Living Ltd. In this model:

- a) The economic interest in the dwellings will remain with the council by way of a turnover lease, whereby **all net rent receivable** (less a percentage of the gross rent receivable retained by Venta Living Ltd towards costs and other liabilities (primarily management)) is passed as rent under the lease to the council.
- b) Day to day housing management would be contracted out by Venta Living Ltd to the council and that contract would be managed by Venta Living Ltd.
- c) Repairs, maintenance, major works and insurance will be the responsibility of the council.

3.2 Under this lease structure, risks of rent arrears would sit with Venta Living Ltd.

3.3 The Renters' (Reform) Bill introduced to Parliament in May 2023 will go through several parliamentary processes, undergo scrutiny and possible amendments, before it becomes law. As expected, the first draft contains proposals to replace assured shorthold tenancies with periodic tenancies and the abolition of s21 'no fault' evictions. The negative effects of these changes will be felt more by landlords who wish to have their tenants vacate their properties rather than landlords like Venta Living Ltd whose business plan is based on occupation.

4 WORKFORCE IMPLICATIONS

4.1 The following three directors have been appointed in accordance with the authority delegated by Cabinet in March (CAB3401) – Dawn Adey, Tim Sharpe and Councillor Jerry Pett. The councillor nominations to the board of directors will be reviewed in 12 months' time to reflect external legal guidance. Board of director training is scheduled for July.

4.2 CAB3366 noted that housing management, governance (including company secretary) and financial services would be provided to Venta Living Ltd by the council. This will not require amendment to the terms and conditions of employment for existing staff, as the scope of their roles is considered wide enough to cover these additional responsibilities. The cost of those services provided by the council are contained in the proposed business plan.

5 PROPERTY AND ASSET IMPLICATIONS

5.1 The draft financial business plan presented at exempt Appendix B of this report supports the disposal by a lease of 30 years of the flats at Winnall to Venta Living Ltd.

5.2 Other potential asset transfers will be considered as and when they arise and be supported by a detailed business case.

6 CONSULTATION AND COMMUNICATION

6.1 In addition to the extensive consultation already undertaken (CAB3366 and CAB3401 refer), officers are continuing to work closely with councils who have already established housing companies.

7 ENVIRONMENTAL CONSIDERATIONS

7.1 As with all new homes provided by the council, properties leased to Venta Living Ltd will be energy efficient, have lower carbon emissions and be resilient to climate change. In particular, overheating, flood risk and extreme weather events.

8 PUBLIC SECTOR EQUALITY DUTY

8.1 The proposals in this report are consistent with the current Housing Strategy, which was subject to an Equality Impact Assessment. The proposals expand the housing offer to the community and compliment the council's current offer which includes social and affordable rented housing and shared ownership homes. This supports the *Homes for All* priority.

8.2 A panel of officers was established in March 2023 to further review compliance with the duty. No concerns were raised from an equalities perspective, and the report noted that the proposals are supported by a broad range of existing data including the current Strategic Housing Market Assessment (SHMA), the Local Plan, the Council Plan, the Development and Housing Strategies.

8.3 It was noted that care should be taken with the marketing of the units at Winnall to ensure that relevant information is accessible to all potential applicants, and in particular that no-one is disadvantaged on the basis of either race or disability.

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 Venta living Ltd will be required to satisfy its obligations towards data protection and there is provision in the business plan to purchase advice in that regard.

10 RISK MANAGEMENT

10.1 Key risks and opportunities for the council are outlined below.

10.2 Key risks for Venta Living Ltd are outlined in exempt Appendix A.

Risk	Mitigation	Opportunities
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Risk	Mitigation	Opportunities
<p><i>Financial Exposure</i></p> <p>Venta Living Ltd is or becomes non-viable and unable to operate</p> <p>Risks to the council as sole shareholder that intervention (additional investment) would be required if the company runs into financial difficulty (e.g. shortfall in working capital).</p> <p>Risk to council as shareholder</p> <p>VAT – risk that the council’s partial exemption threshold will be breached by excessive repairs & maintenance spend on the properties leased to Venta Living Ltd</p> <p>Set-up costs exceed budget. Includes staffing resources, expenditure on professional fees, IT and marketing etc.</p> <p>Rents received are significantly lower than the receivable rental in the business plan (and upon which Venta Living Ltd’s fee is deducted)</p>	<p>Recruitment of suitably qualified non-executive directors to manage the business of the company in line with the annually agreed business plan. Requiring regular director review of Venta Living Ltd’s financial performance reporting / void levels / letting turnover etc.</p> <p>Regular review by the council of director’s reports on Venta Living’s performance reports.</p> <p>Costs incurred ahead of consideration by full Council will be limited to those necessary to ensure that Venta Living Ltd is operational ahead of completion of the flats at Winnall</p> <p>Regular annual and mid-year review of the business plan by company directors and reporting to the council.</p>	

Risk	Mitigation	Opportunities
impacting HRA with reduced income.		
<i>Exposure to challenge</i>	CAB3401 (s.3) identifies the powers that permit the council to set up a company. An EqlA was undertaken in March 2023 (see section 8 of this report). The EqlA within the current Housing Strategy also remains relevant.	
<i>Innovation</i> Establishment of a new wholly owned subsidiary company by the council.	The council's role as sole shareholder will ensure control over the company. Due diligence carried out including external legal advice, intelligence gathering and discussions with local authorities and other registered providers.	An innovative approach that enables homes to be offered to a vehicle that has freedom to deliver to a broader market than the council can through its current housing stock.
<i>Reputation</i> Delay in company set up and/or development of operational processes may compromise the delivery of project objectives for Winnall with consequent reputational risk	Careful project management of VLL set-up ensures that this is achieved ahead of completion	
<i>Achievement of outcome</i> Legal The Renters' (Reform) Bill introduced to Parliament May 2023 still needs to go through several	The progress of the draft Bill through Parliament will be monitored, and the full implications of the	

Risk	Mitigation	Opportunities
<p>parliamentary processes, undergo scrutiny and possible amendments, before it becomes law. The first draft contains as expected the replacement of assured shorthold tenancies with periodic tenancies and the abolition of s21 'no fault' evictions. This has potential implications for tenancy turnover</p> <p>Under this lease structure, risks of rent arrears, voids and fundamental risk of demand would sit with Venta Living Ltd</p>	<p>proposed changes evaluated in advance of enactment. The negative effects of these changes will be felt more by landlords who wish to have their tenants vacate their properties rather than landlords like Venta Living Ltd whose business plan is based on occupation.</p>	

11 SUPPORTING INFORMATION:

Background

- 11.1 The extensive background to this proposal is well-documented in previous committee reports, most recently CAB3366 (December 2022) and CAB3401(March 2023).
- 11.2 CAB3366 supported the principle of establishing a council owned housing company to:
- a) Lease from the council and manage accommodation held in the HRA and the General Fund to be identified on a case-by-case basis and subject to a viable business case.
 - b) Provide high quality energy efficient rented accommodation for households who struggle to access council and other affordable housing products.
 - c) Take advantage of an early opportunity to lease from the council one block of 41 one-bedroom flats currently being developed at Winnall.
- 11.3 The Corporate Head of Housing was authorised to develop detailed proposals for further consideration by Cabinet including the strategic and financial

business cases, governance arrangements, director appointments and specific company conditions.

11.4 CAB3401 recognised that establishment of the company in advance of developing detailed proposals would be advantageous and help to ensure that the company was well placed to take responsibility for the development at Winnall in late 2023. As a result, in March 2023 Cabinet approved recommendations to:

- a) Agree the draft shareholder agreement and articles of association, with authority to finalise both documents delegated to the Strategic Director with housing responsibility.
- b) Authorise the Strategic Director with housing responsibility to establish the company for the purposes set out in CAB3366.
- c) Approve the company name as Venta Living.
- d) Appoint five company directors.
- e) Authorise the Strategic Director with housing responsibility to enter into a resourcing contract with the company subject to an agreed business plan.

11.5 Venta Living Ltd was incorporated in May and remains dormant pending agreement of the business plan by the shareholder.

11.6 The board of directors of Venta Living Ltd have agreed the submission of the proposed business plan. They have considered and agreed the resourcing contract that contains the services to be provided to the company by the council subject to shareholder agreement.

11.7 The council will be providing the following services to the company at an annual overall fee of £68,200.

- a) Lettings and housing management.
- b) Building services covered by service charges.
- c) Accountancy.
- d) Company secretary function.
- e) Estate services.

12 PROPOSALS

Financial Business Plan for Venta Living Ltd

12.1 This is presented in detail in exempt Appendix B with key assumptions contained in exempt Appendix C.

Lease – WCC/Venta Living Ltd

- 12.2 It is proposed that the alternative leasing model outlined in section 3 of this report be adopted. It is considered to be the most economically advantageous for both the council and Venta Living Ltd and on balance, carries less risk to the General Fund than the original model (CAB3401 refers).

Strategic Business Case

- 12.3 The strategic business case was presented to Cabinet in December 2022 (CAB3366). Supported by a detailed affordability analysis, it remains fit for purpose and consistent with the Council Plan:
- a) The establishment of a company to lease properties from the council will allow it to act in a manner similar to an “institutional grade landlord” offering a product that compliments the council’s existing housing offers and address a gap in the local housing market.
 - b) The company will offer assured shorthold tenancies² to household who struggle to access affordable longer-term housing within the local market due to limited supply and the very high cost of private housing. As a landlord with a long-term commitment to providing rented accommodation, tenants will benefit from greater security of occupation and high-quality management and maintenance services provided by the council.
 - c) The vehicle will allow individual leasing opportunities to be considered on a case-by-case basis to ensure that all opportunities are feasible, meet objectives and that risks are suitably mitigated.
- 12.4 Alternative options were set out in CAB3366 paragraph 11.49 and section 13. These are summarised and updated below at section 14. Should a surrender of the lease between Venta Living Ltd and the council become necessary, they (and potentially others) would be revisited as part of an exit strategy. Any exit option will depend on the circumstances prevailing at the time.

Shareholder agreement – reserved matters

- 12.5 Prices were sought from suitable qualified auditors to undertake the audit of Venta Living Ltd. The appointment of the company’s auditor is a matter reserved to the shareholder thus authority is sought to approve the appointment of Fiander Tovell Ltd to undertake this role.

Early marketing of the Winnall flats

- 12.6 It is recommended (recommendation 2) that soft marketing, focusing on publicising the new flats, is launched ahead of full Council in order to maximise awareness of the new homes at Winnall. The early promotion of the

² See section 3 for proposed changes to the assured shorthold tenancy regime

scheme will minimise the risk of flats remaining empty. The marketing of the new shared ownership homes at Winnall is soon to commence and the council will work collaboratively with Venta Living Ltd in order to create marketing strategy synergies.

13 CONCLUSIONS

- 13.1 The strategic business case for the incorporation of a wholly owned subsidiary housing company was set out in CAB3366 and is briefly summarised above at section 12.3. Members are reminded that the company is not intended and nor is it financially viable to be an investment or a development vehicle that will deliver significant returns. However, it will extend the council's housing offer to support its *Homes for All* priority, whilst allowing the council as sole shareholder to retain a high degree of control.

14 OTHER OPTIONS CONSIDERED AND REJECTED

- 14.1 CAB3366 noted the potential alternatives to establishing a housing company and the risks they carried for the development at Winnall. These have been reviewed and updated below:
- a) Let the units as affordable rented housing through a community lettings plan. This would not meet the community commitment to diversify tenure or the Winnall housing scheme project objectives.
 - b) Let the units as affordable rented housing without a community lettings plan. This would also fail to meet the community commitment to diversify tenure or project objectives.
 - c) Lease the units to a registered provider/enter into a joint venture arrangement. This approach was considered no less complex than establishing a housing company with the added risk of the council having far less overall control.
 - d) Use as intermediate affordable housing, for instance, shared ownership sale or rent to buy (homes let at sub-market rents which gives the tenant the opportunity to save for a deposit to buy the property). Both options provide the opportunity for tenure diversification. However, although they *may* be appropriate exit strategy options they carry risks, would not meet all project objectives and so are not favoured alternatives at present. Homes will (in the case of shared ownership), or may ultimately not (in the case of rent to buy), be available to the rented market and so this alternative would undermine project objectives. Furthermore, in the case of shared ownership homes, the remainder of the development at Winnall is already earmarked as shared ownership and so there is a risk of market saturation and supply outstripping demand, particularly at a time of high interest rates. In the case of rent to buy, provision may need to be through a third party registered provider and the homes may not attract interest from a broader market than those who would normally seek affordable housing.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

CAB3401: *Establishing a Local Housing Company*
Cabinet, 16 March 2023

CAB3366: *Housing Company – Revised Options and Business Case*
Cabinet, 14 December 2022

BHP022: *New Homes Programme Update*
Business and Housing Policy Committee, 21 September 2021

Presentation: *Housing Development Strategy*
Business & Housing Policy Committee 1 December 2020

CAB3160: *Establishing the Winchester Housing Company*
Cabinet, 18 September 2019, and Council 25 September 2019

Presentation: *Housing Company*
Business and Housing Policy Committee 18 June 2019

CAB3139(HSG): *Establishing the Winchester Housing Company*
Cabinet (Housing) Committee 20 March 2019 and Cabinet 25 March 2019

CAB2990(HSG): *Establishing Local Housing Companies to Support New Homes Development*
Cabinet (Housing) Committee 22 November 2017 and Cabinet 6 December 2017

CAB2911(HSG) – *Establishing Local Housing Companies to Support New Homes Development*
Cabinet (Housing) Committee 22 March 2017

CAB2616(HSG): *Options for Increasing the Supply of Affordable Housing*
Cabinet (Housing) Committee 1 October 2014

Other Background Documents: -

None.

APPENDICES:

Exempt Appendix A – Company Risk

Exempt Appendix B – Final draft Financial Business Plan – (non-IFRS16 basis)

Exempt Appendix C – Business Case Assumptions

Appendix D – Impact on General Fund

Appendix E – Impact on HRA