



### 3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan

#### 3a. Slough Joint Wellbeing Strategy Priorities

The establishment of the Trading Partnership will help improve the quality and standards of housing within the borough, through delivering repairs, maintenance and investment services to the private sector with the potential in the future to move to small scale development, remodelling and modular housing for the private and public sector. The profit share will generate income that the council can reinvest in its services and communities.

#### 3b. Five Year Plan Outcomes

Establishing a trading partnership with OPSL will contribute to the following 5 Year Plan outcomes:

- *Our children and young people will have the best start in life and opportunities to give them positive lives.*
- *Our people will become healthier and will manage their own health, care and support needs.*
- *Slough will be an attractive place where people choose to live, work and visit.*
- *Our residents will have access to good quality homes.*

It is well established that having a stable, attractive home has a significant impact on a person's health and well-being. Establishing a trading partnership will offer an opportunity to increase the quality and quantity of housing for Slough's residents.

## 4 Other Implications

### (a) Financial

The council has entered into a long term agreement with OPSL. Part of OPSL's Service Innovation submission provided for a range of initiatives and opportunities for the whole community, irrespective of tenure. This included the offer to provide modular housing and the council has sought legal advice regarding its ability to use its retained 1-4-1 Right to Buy Receipts under the Retention Agreement to support the development of these units on council sites.

The Retention Agreement is supplemented by Guidance issued by the DCLG in March 2014 (the Guidance). The council must use the retained amounts for the provision of "social housing". Social housing is defined as "low cost rental accommodation as defined in section 68(1)(a) of Housing and Regeneration Act 2008" which is defined as accommodation which is

- "(a) made available for rent;
- (b) at below the market rate; and
- (c) the accommodation is made available in accordance with rules designed to ensure that it is made available to people whose needs are not adequately served by the commercial housing market."

The proposed use of the modular housing - for temporary accommodation, care leavers, social care or key workers - would fall within the definition of "social housing"

provided the accommodation is let as low cost rental accommodation as defined above. This would mean that the rent charged by the Council to tenants of the units can be no more than 80% of market rent.

The Guidance confirms that social housing could cover housing with rents up to 80% of the market rent (i.e. Affordable Rent) but provides no further conditions.

Considering the terms of the Retention Agreement and the Guidance it would be possible for OPSL to be passed the retained 1-4-1 RTB Receipts by the Council for the provision of the modular housing on council sites (as they will be for the benefit of the Authority given they will be in the Authority's area). Receipts could also be used for modular housing outside of the borough, provided the council receives nomination rights to such accommodation, or has ownership.

Receipts to OPSL can be provided so long as the following conditions are met:

- the amount provided is spent on the provision of social housing (provided that ownership does not reside in a company controlled by the Council – this excludes James Elliman Homes from benefiting from the retained 1-4-1 RTB receipts);
- the amount provided is for the benefit of the Authority's area; and
- the amount provided is covers no more than 30% of the development costs.

OPSL could therefore be the recipient of the retained 1-4-1 RTB receipts for the provision of modular housing on the basis that it is capable of meeting the terms of the Retention Agreement. However, the funding of the remaining 70% of the development costs (land owned by the Council may not be counted as part of these costs) will need to be considered and evaluated – if the remaining 70% of the funding comes from the HRA (resources permitting), then the units will be owned by and sit within the HRA. Should OPSL source the remaining funding outside the Council and retain ownership of the properties, then the Council through its HRA would have nomination rights.

In the future, following further legal and financial advice, the Trading Partnership may have the potential to be the recipient of RTB Receipts to undertake the provision of high quality modular homes for use as temporary accommodation which will improve the Council's ability to meet its duties under homeless legislation, offering attractive, more stable, affordable, accommodation for homeless households while their longer term housing options are considered. The Trading Partnership would have the ability to receive the RTB Receipts as the council will not be the majority shareholder and RTB Receipts cannot be provided to an entity in which the Council has a controlling interest.

Pending the establishment of the Trading Partnership, a similar proposal is offered to James Elliman Homes, to engage with OPSL to deliver over 80 modular units in Slough. The modular and accelerated nature of these units could deliver homes within four months of being granted planning permission.

## Risk Management

<b>Risk</b>	<b>Mitigating action</b>	<b>Opportunities</b>
Legal	OJEU based process of competitive dialogue undertaken, culminating in appointment of OPSL.	Establishment of Trading Partnership allowing profit share to generate income to the council
Property	None	Opportunity to increase overall housing supply
Human Rights	None	
Health and Safety	None	Provision of quality services to private sector housing improves overall housing conditions and safety
Employment Issues	Use of existing resources, subject to success if trading partnership	For efficiencies and savings, subject to income generation
Equalities Issues	None	
Community Support		As the HRA is ring fenced, the trading partnership will provide avenues for working with the 3rd sector to develop and implement innovative solutions
Communications	None	
Community Safety	Provision of quality services to private sector housing improves overall housing conditions and safety	The potential utilisation of derelict land for temporary accommodation, may reduce current ASB and provide needed housing for those who might otherwise be rough sleeping. Enhances safety and security of minors
Financial		For income generation for the council and the potential utilisation of Council owned land for temporary accommodation in the future.
Timetable for delivery	None	
Project Capacity	Subject to the success of the Trading Partnership, capacity will be reviewed	
Other		

(b) Human Rights Act and Other Legal Implications

Section 1 of the Localism Act 2011 (the 2011 Act) provides local authorities with the power to do anything an individual may do, subject to a number of limitations. This is referred to as the "general power of competence". A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others.

Section 4 of the 2011 Act requires that where a local authority exercises/uses the general power of competence, if it does so for a commercial purpose it must do this through a company. As with section 95 of the Local Government Act 2003 the type of company that the Council can use is limited to companies limited by a guarantee, companies limited by shares or community benefit societies. A limited liability partnership is not permissible for the purposes of Section 4 of the 2011 Act.

As the Company is anticipated to be owned in majority by OPSL (51%) it will not be controlled by the local authority and, subject to accounting advice, the Trading Partnership should be off the Council's balance sheet.

Care will need to be exercised, however, because the "general power of competence" is qualified by Section 2.2(a) of the Localism Act 2011 to provide that this general power does not enable a local authority to do anything which it is unable to do by virtue of a limitation existing before the Localism Act 2011 came into force.

The proposed trading partnership may be effected by Section 24 of the Local Government Act 1988 under which the acquisition by the Council of shares in the trading company could be deemed to be providing financial assistance which requires the consent of the Secretary of State.. It will need to be established, therefore, whether consent is required or whether the acquisition of shares in these circumstances is permitted under any general consent issued by the Secretary of State under the Local Government 1988.

(c) Equalities Impact Assessment

There are no identified needs for an EIA at this juncture

(d) Property

HRA sites such as garage compounds or land not subject to development funding may be utilised or leased for use for modular housing pending further advice.

**5 Supporting Information**

- 5.1 Following an OJEU based process of competitive dialogue with Slough Borough Council, OPSL has been appointed as its chosen partner to deliver repairs, maintenance and investment services to the Council's housing stock (the RMI Contract). As part of the competitive dialogue procedure bidders were evaluated on, amongst other things, their service innovation proposals. OPSL included in their service innovation proposals the establishment of a special purpose vehicle (the Trading Partnership) to deliver additional services to leaseholders, homeowners and to private sector landlords (Extended RMI).

- 5.2 The OPSL proposal provided that the Trading Partnership would be established with 51% of the shares owned by OPSL and the Council being "gifted" the remaining 49% of the shares. It is also part of the OPSL proposal that a profit sharing protocol will be agreed between the Council and OPSL.
- 5.3 It may be the case that the Trading Partnership will be a suitable vehicle for other income generating work stream activities for the council, such as new build or modular housing, which will be reviewed, subject to procurement and legal review in each case.
- 5.4 A further development of the business case for Modular housing will be undertaken. The nature of modular housing, being rapid install, with opportunities for several relocations to make use of multiple 'meanwhile use' plots, means it can be considered as a long term income generating asset, whose relatively modest capital cost and subsequent relocations can provide great flexibility and financial opportunity for many years. The plan will identify the most advantageous methods of utilisation to suit the council's unique needs.
- 5.5 It may also be the case that other services and capabilities procured within the RMI could be delivered via the Trading Partnership and so become income generating for the council.

## **6 Comments of Other Committees**

- 6.1 This report has not been considered by any other committees.

## **7 Conclusion**

- 7.1 Throughout the course of the RMI competitive process, a key principle was that whatever promises were made during dialogue, had to be committed to paper and submitted as part of the Call for Final Tender (CFT). The establishment of a trading partnership with OPSL is the next stage of the process, taking 'promises to paper' and making them an operational reality.
- 7.2 The establishment of the Trading Partnership with OPSL will enable the council to generate income to be invested in its communities and potentially roll out a series of service innovations in the future.

## **8 Background Papers**

None