

## Wiltshire Council

### Cabinet

13 December 2022

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**Subject:** Various Sites. Appropriation of Property Assets held in the General Fund into the Housing Revenue Account and the appropriation of property out of the Account into the General Fund.

**Cabinet Member:** Cllr Phil Alford, Cabinet Member for Housing, Strategic Assets, Asset Transfer

**Key Decision:** Non Key

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#### **Executive Summary**

The Council has a number of property assets where a decision has been made to bring forward affordable housing and it is proposed that they now be appropriated to, and held in, the Housing Revenue Account (HRA).

There are other sites, currently held in the HRA but being used, or proposed for use, for service provision, which requires them to be appropriated into the General Fund

An accounting adjustment is required to deal with the movements of property assets in to/out of what is a statutorily ring-fenced account.

#### **Proposal(s)**

That Cabinet agrees:

- To appropriate the property assets noted from the General Fund to the Housing Revenue Account.
- Subject to any necessary authority being obtained by the Secretary of State, to appropriate the assets noted from the Housing Revenue Account to the General Fund
- That the relevant accounting adjustments are made.

#### **Reason for Proposal(s)**

The Housing Revenue Account is a ring-fenced fund. Whilst the Council is generally able to transfer property assets in its holdings, between uses, without specific resolution, property assets cannot be moved in or out of the Housing Revenue Account except through appropriation by way of Cabinet resolution.

**Terence Herbert**  
**Chief Executive**

## **Wiltshire Council**

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### **Purpose of Report**

1. This report is to seek approval for the appropriation of various property assets held in the General Fund into the Housing Revenue Account to allow for their development, to meet either sheltered or general need housing requirements. It further recommends the transfer of property held in the Housing Revenue Account into the General Fund, reflecting the current or intended use of the property for service delivery rather than housing need.

### **Relevance to the Council's Business Plan**

2. The Housing Revenue Account Business Plan has been approved by Cabinet. Within this business plan, is a budget of £195m to deliver the programme of 1000 new affordable homes over the next 10 years.

### **Background**

3. The Council holds property assets for a number of purposes. The majority of assets are held in the General Fund but housing is generally held in the Council's Housing Revenue Account (HRA). From time to time, property assets cease to be required for its original use and alternative Council uses are highlighted through the surplus property procedure.
4. Whilst the Council is generally able to transfer property assets in its holdings, between uses, without specific resolution, property assets cannot be moved in or out of the Housing Revenue account except through appropriation by way of Cabinet resolution. This is because the Housing Revenue account is a ring-fenced fund.

### **Main Considerations for the Council**

5. Attached at Appendix 1 is a schedule of the properties that are currently held in the General Fund where there are proposals to bring the assets forward for housing purposes to be held in the HRA.

6. Attached at Appendix 2 is a schedule of assets that are currently held in the HRA where there are other service needs highlighted that require their transfer to the general Fund.
7. An outline of the current and proposed uses for each site and relevant information is contained within the appendices, together with detail of when any alternate uses were approved by internal decision making groups.
8. The majority of operational property holdings, somewhat regardless of the original holding powers or current use, are now held under general holding powers and can be allocated between uses at the Council's discretion and using delegated powers to reallocate as necessary. Generally, no specific resolution is required, and they are accounted for in the Council General Fund Capital Financing Requirements.
9. Housing (HRA) properties are held under specific housing powers and have a statutorily ring-fenced fund. In order to transfer property to or out of this fund a specific resolution to appropriate the property is required from cabinet. Financial adjustments will be required to both sets of Capital Financing Requirements

### **Overview and Scrutiny Engagement**

10. No overview and scrutiny engagement has taken place in respect of this proposal.

### **Safeguarding Implications**

11. This proposal does not have any implications for safeguarding children, young people or vulnerable on the basis that it is procedural only.

### **Public Health Implications**

12. This proposal does not have any implications for public health, on the basis that it is procedural only

### **Procurement Implications**

13. This proposal does not have any implications for procurement on the basis that it is procedural only

### **Equalities Impact of the Proposal**

14. This proposal does not have any implications for Equalities, on the basis that it is procedural only

### **Environmental and Climate Change Considerations**

15. There are no Environmental or Climate Change Considerations arising out of this report. Any development that subsequently occurs will have due regard to these issues when being brought forward.

### **Workforce Implications**

16. There are no workforce implications arising out of this report on the basis that it is procedural only

### **Risks that may arise if the proposed decision and related work is not taken**

17. Housing delivery targets may not be met. The sites give opportunities to meet the identified need for affordable housing in the area.
18. Property would not be allocated to the correct fund as required

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

19. By appropriating sites to the HRA the sites will not be made available for other potential service uses. This risk has been minimised because no other service use have been identified through the surplus property procedure.
20. By appropriating the sites to the HRA the Council may be forgoing capital receipt. This will be mitigated by an ongoing monitoring of the disposals programme and maximising receipts across other sale opportunities, some of which may be derived from HRA properties that are transferring to the General Fund. The General fund and HRA Capital Financing Requirements will both be updated to reflect the transfer.
21. By appropriating premises out of the HRA to the General Fund, the housing estate will be reduced which will correspondingly reduce the Council's capacity to meet its established housing need. The potential conflict between meeting general housing requirements and the specific needs of clients of the Council's care services will be reviewed to ensure that the correct balance is struck

### **Financial Implications**

22. The HRA is a ringfenced account and has to follow specific rules and regulations. Property assets can be transferred between the HRA and General Fund by way of appropriation by a Cabinet resolution.
23. No cash transactions take place between the HRA and General Fund as part of appropriation. Instead, the Capital Financing Requirement (CFR) for the HRA and General Fund are updated to reflect the transfer of the property asset.
24. The CFR measures the underlining need to borrow for capital purpose, i.e. the borrowing requirement. The CFR is the amount of capital expenditure that has not yet been financed by capital receipts, capital grants or contributions from revenue.
25. If property asset is transferred from the General Fund to the HRA the CFR for the General Fund decreases and the HRA CFR increases by the value of the property asset and vice versa for the other way around. To do the appropriation an independent open market valuation is required to ascertain the value.
26. Independent valuations have not been undertaken but will be upon Cabinet resolution, the valuations included in appendices 1 and 2 are Wiltshire Council property services valuations and are presented as a forecast. The proposal is to transfer property with a total of circa £1.688m from the General Fund into the HRA and £0.340m from the HRA

to the General Fund. The table below sets out the impact of this appropriation on the General Fund and HRA CFR.

Table 1 – Impact on Capital Financing Requirement

	Opening CFR 2022 £'m	Appropriations from GF to HRA £'m	Appropriations from HRA to GF £'m	Revised CFR £'m
HRA	£99.865	£1.688	£(0.340)	£101.213
General Fund	£481.303	£(1.688)	£0.340	£479.955
Total	£581.168	£0.000	£0.000	£581.168

27. If the suggested appropriations are approved the HRA CFR will increase by £1.348m, specifically the HRA's borrowing requirement will increase by £1.348m and the General Fund decrease by £1.348m.
28. The Housing Revenue Account Business Plan has been approved by Cabinet. Within this business plan, is a budget of £195m to deliver the programme of 1000 new affordable homes over the next 10 years.
29. Where housing development is being proposed, a Financial Viability Appraisal is completed to ascertain the cost of the development, the grant funding opportunities and the loan required to finance the project. The rental income is then utilised to offset against any borrowing over a payback period that cannot exceed 40yrs.
30. There may be holding costs associated with holding the assets prior to development which will be met from the HRA.

### **Legal Implications**

31. Property listed in section 74 of the Local Government and Housing Act 1989 must be accounted for in the HRA. This comprises dwellings and other property which is expressly provided by local authorities under Part II (provision of accommodation) of the Housing Act 1985 (or any other power specified in section 74 of the Housing Act 1989).
32. The local authority's general appropriation powers are found in:
  - (a) section 122(1) of the Local Government Act 1972 (the 1972 Act) under which a local authority may appropriate land for any purpose for which it is authorised by the 1972 Act or any other enactment to acquire land by agreement and which is no longer required for the purpose for which it is held immediately before the appropriation; and
33. section 19(1) of the Housing Act 1985 (the 1985 Act) which grants powers to the local housing authority to appropriate any land for the purposes of Part II of the 1985 Act and the local housing authority will have the same powers in relation to that land as it had in respect of land acquired for the purposes of Part II of the 1985 Act.
34. However, if the Council wishes to include within the HRA property (other than dwellings) which is ancillary to Part II housing but is not currently provided under Part II, it will be necessary to obtain consent from the Secretary of State under section 12

of the 1985 Act. This includes the provision of shops, recreation grounds and other buildings and land which will serve a beneficial purpose in connection with the requirement of the persons for whom Part II accommodation is provided. The transfer of the former defunct care homes into the HRA (as set out in Appendix 1) is not considered to require Secretary of State consent.

35. The General Housing Consents 2013 which provides general consent to local housing authorities to dispose of Part II land (in compliance with s122(1) of the 1972 Act), does not include appropriation. However, land other than dwellings which are ancillary to Part II of the 1985 Act and which no longer fulfil their original purpose may be removed by the HRA by appropriation to a different purpose without Secretary of State Consent. This does not apply to dwellings
36. Where a local housing authority wishes to appropriate land consisting of a house or a part of a house acquired for Part II purposes out of the HRA into the General Fund, section 19(2) of the 1985 Act applies. Under that section, a local housing authority shall not appropriate the land for any purpose without the Secretary of State's consent. It will therefore be necessary to gain such consent in the case of 12 Cunnington Close prior to this transfer being enacted.

### **Options Considered**

37. That the properties be put to an alternative service use by Wiltshire Council. No other interest was received.
38. The properties be developed for Commercial purposes, for inclusion in commercial estate to generate revenue. The sites have been considered and are not appropriate for commercial use. They are in residential areas that would conflict with such a use.
39. Dispose on the Open Market or to Stone Circle Housing Company. This would not allow for the Council's development for affordable housing purposes, and whilst generating capital receipts may restrict the Council's potential to meet its recognised housing needs and targets.

### **Conclusions**

40. The conclusions reached having taken all of the above into account is that the necessary appropriations in and out of the HRA should be confirmed and the adjustments to the relevant Capital Financing Requirements are made Subject to Secretary of State consent in the case of transfer of any dwellings out of the HRA.

### **Simon Hendey (Director - Assets and Commercial Development)**

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Date of report

**Appendices** – Appendix 1 – Schedule of properties to be appropriated to the HRA  
Appendix 2 - Schedule of properties to be appropriated from the HRA

### **Background Papers**

None