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HM Treasury



Construction Company Options Review on behalf of Harlow Council

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1 INTRODUCTION

1.1 Purpose of the review


Local Partnerships have been commissioned to provide support to Harlow District Council (the Council) in relation to the options available to it in connection with the potential establishment of a construction company.

The review has had a particular focus on the established company, HTS (Property and Environment) Limited (HTS), which is a wholly owned company set up by the Council to provide environmental and property maintenance services. Following preparation of the HTS Business Plan in March 2022, the Shareholder Sub Committee agreed that further work is needed to fully evaluate the option to create a construction subsidiary of the HTS Group as proposed and alternative options which would achieve the Council's objectives for new homes delivery. This will inform the Shareholder Sub Committee as to whether the proposal to establish a construction company is likely to prove appropriate and sustainable.

1.2 Scope of the review

The Council has requested that we review the commercial options under which a construction/development subsidiary of HTS may be established as follows:

- 1) Identify the ambitions and requirements of the Council in the next five years to build new housing, some or all of which could be contracted to a new HTS subsidiary to deliver on behalf of the Council or delivered through one or more of the options below.
- 2) Identify the pros and cons of different options for the delivery of the Council's Housebuilding Programme. This work is to focus on commercial advice rather than detailed legal exploration of the implications of the different options. These options shall include those as a minimum: -
 - a) Establishment of an HTS subsidiary to deliver all or part of the Council's programme.
 - (i) Analysis of the organisation's current management capacity and expertise to enable this and the ability to scale up an in-house option.
 - (ii) The scope for a acquisition of an existing housebuilding company to enable the expertise and capacity to be bought in. This is to be explored at a theoretical level rather than the detail of any specific opportunity.
 - (iii) Development of a joint venture or partnership between HTS and another local authority trading company already delivering new build houses.
 - b) Development of joint venture structures between the Council and existing housebuilding companies to deliver all or part of the Council's programme.
 - c) Undertake a separate open competitive tendering process for each individual construction project.

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- d) Procure a framework partner to act in a Development Management role for the Council.
 - e) The potential for an in-house option within the Council, with the Council directly employing the required staff to enable direct delivery of the Development Management role.
- 3) Identify the potential for the delivery of non-Council housebuilding construction contracts across the wider East of England. This should include the ability to secure these contracts (and what would be required to enable this) and the prospects for being able to deliver these contracts to provide a financial return to the shareholder.
 - 4) Analyse HTS's delivery of the contract to construct two houses at The Hill on behalf of the Council in 2021-22 and the extent to which this provides any learning points for the delivery of a larger scale operation.

1.3 Methodology

An inception meeting was held on 22 September 2022 with the Director of Strategic Growth & Regeneration, the Assistant Director for Regeneration, and the Regeneration Project Support Officer. The purpose of the meeting was to confirm the approach, agree timeframes for delivery and the key stakeholders which needed to be engaged to inform the review. The meeting also provided useful context and highlighted key documents which would provide further background. Subsequent meetings were also held with key stakeholders on a confidential basis which including Council Officers and HTS representatives, which have served to inform the review.

The study has included a review of the following reports, documents, and policies:

- HTS (Property and Environment) Ltd Business Plan (2022-2027)
- New House Building Programme Cabinet Report – 24 March 2022
- HTS Business Case for the Hill Scheme
- Harlow Council Housing Strategy, 2022-2027
- Cabinet Report, March 2022
- Affordable and Specialist Housing Supplementary Planning Document, 2021
- Harlow Council Corporate Strategy, 2021-2023
- Public Minutes 24032022 1930 Cabinet
- Tender Response Document – The Hill – Final
- The Hill Completion Report
- HTS Capability Assessment, McBains October 2021

2 New House Building Programme

The Cabinet Report published March 2022¹ endorses the aims, targets, and themes of the New House Building Programme (NHBP). Both the Council's Housing Strategy² and Local Plan adopted in 2020 highlight the need for affordable housing. Locally within Harlow, the Housing Strategy identifies the following local housing needs between 2011 and 2033:

- A total housing need of 7,409 additional dwellings within Harlow
- A policy requirement of 9200 dwellings to support regeneration and affordability
- An affordable housing need of 3,400 dwellings.

The objectively assessed evidence base for the Local Plan identified more than a 5-year housing land supply. This identifies a pipeline of development sites with capacity totalling 5,558 dwellings. Of these:

- 4,723 have a valid planning permission, March 2019
- 834 are allocated dwellings up to the end of 2024, of which 249 are on Council owned land
- A strategic site has been allocated in the East of Harlow for 2,600 dwellings.

In January 2022 there were 5,209 applications on the council's Housing Register with the highest need for 2 and 3-bedroom houses³. It is recognised that most of the affordable housing need will be delivered through private developments but that there is a requirement for the Council to deliver more social housing to cater for residents on the Council's housing register. The Affordable and Specialist Housing SPD adopted in 2021⁴ provides further guidance for developers and supports Local Plan Policy H8 which requires that *'in residential developments of more than 10 dwellings it will be expected that at least 30% of affordable housing is provided'*. Where dwelling numbers are uncertain at the time of determining an application, this provision will be applied to all sites with an area of 0.5 ha or more. It is however, recognised that viability challenges in some areas have resulted in the level of affordable housing being delivered by the private sector being below affordable housing targets.

The Council's Corporate Strategy⁵ has set out a strategic ambition for delivering an increased number of social rented homes. In the short term this includes identifying council owned sites for all tenures appropriate for house building. In the medium term and in conjunction with Regeneration the ambition is to develop a housing building plan for identified council owned sites.

The housing and regeneration strategic ambitions are clearly aligned with respect to housing ambitions. A medium-term ambition for regeneration is to deliver a successful Joint Venture(s) partnership(s) to rebuild the town centre as part of the master plan for Harlow. Longer term, the ambition is to build high quality council homes to ensure local housing needs are met.

¹ New Housing Building Programme Cabinet Report, 24 March 2022

² Harlow Council Housing Strategy 2022-2027

³ Cabinet Report March 2022

⁴ Affordable and Specialist Housing Supplementary Planning Document, Adopted October 2021

⁵ Harlow Council Corporate Strategy 2021-2023



2.1 Council house building activity

The Cabinet report provides a useful insight into recent council house building activity with 24 affordable homes delivered at the following developments:

- 8 x 3-bedroom houses through the Pathfinder programme for social rent (2015)
- Bushey Croft – 16 x 2- and 3-bedroom houses for social rent (2021-2022) delivered by Borrás Construction Ltd. The scheme benefited from £640,000 Homes England grant funding
- The Hill – 2 x houses (2022). Delivered by HTS (Property & Environment) Ltd.

Since these developments were completed, a review has been undertaken during February 2022. The Scrutiny Report recommendations on council housebuilding and the existing schemes at Bushey Croft and The Hill includes a series of 20 recommendations for a New Housing Building Programme (NHBP) over the next five years. The recommendations place the NHBP on a sound footing to ensure it meets the Council's Corporate Strategy ambitions to accelerate new homes delivery, effectively and efficiently via a phased programme of development.

2.1.1 Phase 1 schedule of projects of the NHBP

The NHBP has several aims, in summary:

- to significantly increase the number of new homes built by the council over the next five years;
- develop new housing to meet local needs;
- to build a range of housing types and tenures including social rented, housing for sale, shared ownership and affordable rented;
- Building housing of the highest quality achieving carbon net zero;
- Ensure value for money with every project in line with industry norms;
- seeking to exceed the standards set out in the Harlow Design Guide and use of local SMEs and improve social value.

In this context the following targets have been set:

- A total of 99 new socially rented council houses to be built over the next two financial years;
- The production of a detailed phase 2 programme by March 2023, identifying plans for more than 200 additional homes.

The 99 dwellings will be delivered on 11 sites which have been identified with capacity ranging from 2 to 16 dwellings. The sites identified include the two sites at Bushey Croft and The Hill where 18 dwellings have recently been completed with the remainder either at pre-application stage, initial design/feasibility stage and/or subject to budget approval.

All Phase 1 homes delivered by the NHBP will comprise social rented housing to let to residents on the Council's housing register. Phase 2 of the NHPB is focused on meeting housing needs over the next five years.

Currently a further 14 potential sites have been identified to date, subject to site feasibility and viability assessments. These have capacity for an estimated 214 dwellings, ranging from 10 dwellings to 35 dwellings. This list of candidate sites will continue to be developed and sites discounted and added as initial site feasibility work is carried out.



Phase 2 will also explore opportunities for the acquisition of land through the open market, auction, or other opportunities to develop new Council housing. In addition, to enable a longer-term programme of council house building, larger opportunities as part of larger growth areas and estates will be explored including the potential for partnership working with Registered Providers, landowners, and developers.

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3 HTS Group

HTS Group Limited was established in 2017 as a company wholly owned by Harlow Council to deliver its corporate objectives for the environment and property. The existing structure includes HTS Property & Environment (P&E) and HTS Housing & Regeneration (H&R). Both are Teckal companies with the following roles and aims.

- P & E undertook £29m worth of housing maintenance, facilities management, and environmental services during 2021/22, and has an aim to also deliver services to third parties.
- H&R was created to become a landlord that purchases, improves, and rents affordable homes in Harlow and surrounding areas. The company had an annual revenue of £53m as at 2021/22.

The jointly prepared draft business plan for the five-year period 2022-2027 highlights that although HTS Group Limited has a healthy cash position and strong balance sheet, there are several practical financial issues impacting on the business, largely associated with raising external funding, which is yet to be tested, and as a company wholly owned by the Council there is a need to balance their books annually. The company has reverted to a negotiated annual inflationary increase for their Annual Service Charge responsive repair and environmental works. Capital Works Projects are reviewed annually, with the ability to negotiate and adapt to market conditions.

The draft business plan sets out the ambitious plans for the five-year period 2022-2027 which includes the proposal to establish a Local Authority Trading Company (LATCo) to expand the group and undertake wider commercial delivery. The company has in the region of 342 employees, 70% of whom are based in Harlow. HTS is seeking to drive efficiency initiatives and secure cost savings, whilst delivering improved services.

During 2021, the company invested £748,000 in new plant and machinery and IT to deliver more efficient services and expects to invest in new technologies over the five-year Business Plan period. It also seeking to deliver economies of scale through the addition of new group companies to generate increased returns.


3.1 4 The Hill New Build development

As part of the ambitious proposal to grow the HTS Group of companies as articulated in the Business Plan, and to venture into house building, HTS were provided a development project to deliver council houses on this council owned site, The Hill. The Hill completion report⁶ indicates that the project was initially intended to be tendered on the open market but was awarded to HTS for officers in the company to gain the necessary experience in delivering a new build housing project and develop their team and supply chain.

The Hill scheme comprised the demolition of 3 semi-detached houses which were void and construction of 2x 2 and 3 bed semi-detached properties. HTS employed Randall Contracting Limited as main contractor for demolition, site clearance and construction work.

There was a 7-week delay to the project overall however, HTS and the Council have recognised lessons from this project. Key lessons learned included inter-alia:

⁶ 12 August 2022, Harlow Council

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1. Time was lost in the groundworks which resulted in subsequent delays for trades
 2. No continuity / opportunity to develop skills as this was a one-off project
 3. Lack of in-house experience/supervision
 4. Procurement of labour and materials even with assurance from supply chain
 5. Weather
 6. Reliance of one main subcontractor i.e. not breaking sub-contract packages into trades.

After the project, HTS maintain an ambition to continue to grow its housebuilding order book via the creation of a new construction subsidiary within the Group structure.

With respect to the Hill project, HTS's role was limited to that of contract manager, whereby they procured a contractor to undertake the development on their behalf whilst HTS managed the process with the aim of keeping the project to budget and programme. HTS recognises that they are not housebuilders and confirms that on future projects it would be the intention to break the main contract up into sub-contractor packages and not rely on a main contractor.

This very small project and the narrow role played by HTS limits its value in demonstrating the potential for HTS to deliver a house building service to the Council in line with the Council's scale and acceleration ambitions. The role of contract manager is distinctly different from that of development manager with the latter being a much broader set of commercial skills sets.

4 Activities and plans of other councils in the East of England

The HTS business growth plan includes an ambition to penetrate markets and opportunities in Harlow and the East of England (specifically Essex, Hertfordshire, Luton, Central Bedfordshire, Bedford, Peterborough, Cambridgeshire, Suffolk, and Norfolk) for the current HTS mainstream services. This includes an aspiration to bid into frameworks when they come up for renewal, including the Homes England Delivery Partner Dynamic Purchasing System for housebuilders and contractors.

Across Essex and the East of England several Councils have set up Local Authority Companies to deliver residential and commercial developments and services. These include inter-alia:

- Colchester District Council – Commercial housing Company, Colchester Amphora Homes Ltd (CAHL)
- Epping Forest District Council – Local Authority Company with subsidiary companies, Qualis Group Ltd
- Essex County Council – Limited Liability Partnership, Essex Housing LLP
- Thurrock Council – Wholly owned company – BeFirst
- Havering Housing Company – Mercury Land Holdings Ltd
- Brentwood Council – 50:50 Joint Venture Partnership, Brentwood Development Partnership
- Basildon Council – Housing Company, Sempra Homes

Several other local authorities have explored the potential for establishing local authority companies to meet their corporate objectives in the past but have not pursued this further following the preparation of a business case. For example, in September 2020, Broadland District Council's Cabinet voted down the proposal to form a Local Authority Trading Company (LATCo) for the provision of waste services. The proposal to set up a jointly owned company owned by Broadland District Council and South Norfolk Council (which share most services) was rejected due to associated risks. The Council opted to appoint a contractor instead.

In 2016, Rochford District Council set up a LATCo, Green Gateway Trading Ltd to act as the council's commercial arm providing in house services. One contract being grounds maintenance. The objective was to enable the council to be self-sufficient in terms of funding and budgets and pursue future commercial ventures which will reduce costs, generate income, and is not required to bid for a contract if it works exclusively for the council. This company remains dormant.

Also in 2017, Southend-on-Sea set up a Housing Investment Company with a purpose to build and/or acquire homes for sale and to rent including private sale, private rent, shared ownership and affordable rented. There was the potential to generate income for the Council to reinvest. The council had plans in the pipeline to develop 15 homes and a bungalow for disabled use on two garage sites. This company is now dormant.

A summary of companies within Essex and their activities is attached at [Appendix A](#).



4.1 Norse Group of Companies

One Local Authority Company within Essex and the East of England has proven to be relatively successful. Norse Group of companies brings together building consultancy services provider Norse Consulting, care provider NorseCare and facilities management specialists Norse Commercial Services.

The company is 100% owned by Norfolk County Council and has evolved over 30 years to become the largest Local Authority Trading Company in the UK. Today it comprises 42 companies, has 27 partners and 22 partnerships. During 2021 the company turned over £354.3m. An average of 9,738 staff were employed by the group during the financial year ending 2021 across all services.

Historically, the company was originally established to supply services to Norfolk County Council (cleaning, catering, and grounds maintenance) and has subsequently continued to grow and evolve. The company mission is to provide good quality, value for money services to customers and clients; generate an appropriate financial return for shareholders and other public sector partners to allow them to reinvest for the benefit of their local communities; be recognised as a good employer.

Within the East of England, the following Norse Group of Companies are active:

Norse Group Companies in East of England	Partnership	Services
East Suffolk Norse	East Suffolk Council and Norse Commercial Services	Facilities and Waste Management Services
GYB Services	Great Yarmouth Borough Council	Facilities management services to customers in Great Yarmouth and surrounding areas
NPS Peterborough	Joint Venture with Peterborough City Council since 2016.	Key projects have ranged from updating the authority's Asset Management Plan and Investment Acquisition Strategy to providing strategic asset management support in the regeneration of the city centre.
Rochford Norse	Long term partnership with Rochford District Council.	Providing waste collection services in the district until 2030.
Uttlesford Norse	Joint Venture with Uttlesford District Council formed in 2020.	Delivers a range of front-line services including council house maintenance, repairs and cleaning services.
Source: Norsegroup.co.uk		

The Group has recently completed an internal restructuring of shared support services to provide flexibility moving forward. Risk is reduced through a balanced client base across several markets to provide overall resilience.

Across the East of England other companies have been set up and are at various stages in their evolution, although some appear to be relatively embryonic:

4.2 East Suffolk Council

In December 2021, East Suffolk Council announced it is setting up a new trading company as part of its commitment to ensure best value for money for residents. The new LATCo will be responsible for services such as waste and recycling collection and will focus on the transition of core services. The purpose of the new trading company is to allow the Council closer control of key services so that they can maximise support and best value via a direct role in how services are delivered. The current contract, which is in place with Norse for the rest of the county, comes to an end in 2023.

4.3 Epping Forest District Council

Qualis Group Limited is a Local Authority Company comprising subsidiary companies. (Qualis Commercial, Qualis Management, Qualis Living). The objectives are to enhance the district through regeneration, investment, and asset management through residential and commercial developments (retail) and facilities management. The subsidiary companies are active with, Qualis Commercial recently delivering a 330-space multi-storey car park in Epping Town Centre. This is a first phase of the town redevelopment plans to deliver 269 new homes across three sites. As part of the regeneration of the town, Epping Forest District Council will work with its contractor, Places Leisure to deliver a new leisure centre.

4.4 Essex County Council

In 2016, Essex Housing LLP was established by Essex County Council. The objectives are to work with public sector partners throughout Essex to identify and bring forward land and assets for development and reinvest returns into important public services and improved outcomes. The partnership builds private, affordable and specialist housing and invests in new community facilities across the county, managing the end-to-end development process, from site identification to planning, development, marketing, and sales.

Recent developments are set out in the Annual Delivery Plan 2021/2022. Schemes have been brought forward in Rochford, Colchester, Maldon, Epping Forest, Chelmsford, Harlow, Brentwood, Tendring. The current programme comprises of 919 properties of which 48% are specialist/affordable units. 314 have planning permission and a further 70 are awaiting determination. The first phase of development at College Gardens, Rochford has commenced comprising a 60-unit independent living scheme and 14, 3 and 4 bed family homes.

4.5 Huntingdonshire District Council

HDC Ventures Ltd (HDC) is a LATCo that allows the Council to offer services to a wider market. The company works with other local authorities and private sector businesses and wider public sector and voluntary organisations.

Some of the services are delivered through joint ventures with commercial partners where the private partners provide access to expertise that the local authority doesn't have, for example, marketing, business development and sales.

HDC is a wholly owned subsidiary and any post tax profits generated by the company are returned to the council to offset the cost of providing front line services or to help fund additional provision. Services include digital printing, security services, property investment, managing HDC's commercial investment property portfolio and offering a range of management services to commercial landlords.



4.6 Peterborough Borough Council

The new wholly owned company, Aragon Direct Services is a new trading name of Peterborough City Council's registered LATCo, Peterborough Limited. The new trading company has taken over delivery of key services previously operated by Amey including building cleaning service, waste collection, grounds maintenance, street cleaning, building maintenance services and home to school transport. Its mission is to provide high quality services to the residents and businesses of Peterborough in an efficient, effective, flexible, and innovative way.

The new company is expected to provide increased flexibility to meeting the needs of the city and where priorities change (e.g., amending schedules for services such as grounds maintenance) this can be arranged more easily than if outsourced. The company will also allow the Council to generate income to recycle into other services.

4.7 East Cambridgeshire

The Council has established a LATCo in recent years, with an aspiration for the company to provide services and improve the quality of life for residents in East Cambridgeshire, deliver high quality services, trade that acts in the best interest of the council and build a brand. This would be a vehicle to operate the council's waste and recycling services; procure goods and services locally where possible and win contracts that require a Teckal company inside and outside the district.

4.8 Broxbourne Council

Broxbourne Environmental Services Trading Limited (BEST) is a LATCo owned by the Borough of Broxbourne. The company provides sweeping and cleansing services, green space management services for businesses, agents, and developers. The company was incorporated in April 2018 and remains active and began trading on 1 April 2019. In its second year of trading, it made a gross profit of £2.38m. After management charges and contract performance penalties were applied by its main customer the Council, the company made a loss on ordinary activities before taxation of £190,684. It employs 154 staff of which 131 are frontline. The company Directors are pleased with the second year of trading, despite the impact of Covid. The company plans to develop its commercial waste portfolio further.

4.9 Summary

This brief review indicates that there are a considerable number of established trading vehicles already operation across the region. The largest and most successful regional LATCo, Norse Group of Companies, has evolved over a 30 plus year period and has a high profile across the East of England and has a relatively successful track record working across partner authorities. Whether established or newly emerging, these LATCos typically aim to demonstrate best value to their clients and residents and deliver high quality services and a financial return for their shareholders and other public sector partners including for other councils in the region.

To be able to compete, HTS LATCo would need to have the capacity and resources to bid into opportunities and will also need to satisfy evaluation criteria against which the company will be assessed. These may be expected to include:

- Proven and successful track record in delivery;
- Adequate staff and resources of the required calibre and necessary expertise;
- Access to an established supply chain;
- Strong project and programme management including risk management;
- Be of sound financial standing;
- Demonstrate innovation in order to deliver services in the most effective way;
- Offers best value to the customer and clients.

HTS recognises within the Draft Business Plan that whilst it has several strengths including the company's strong financial position, there remain a number of weaknesses that will need to be addressed if it is to actively market the non-Teckal company services outside of Harlow district. The weaknesses highlighted include:

- Limited experience of working for other clients;
- Skills shortage in the sector;
- The current backlog in existing repairs and maintenance following Covid;
- The ability to attract senior level staff;
- The need to update IT systems to achieve efficiencies and enable growth.

In terms of penetrating the markets and sectors within Essex and the East of England more widely, the ability to compete and bid competitively against established LATCos, which benefit from existing partner relationships and suppliers, is likely to prove a significant challenge for HTS. This challenge is likely to be even more pronounced in the current economic climate, where the need to drive increased efficiencies and optimise returns is becoming increasingly more difficult.

Logically, the current backlog in repairs and maintenance should be addressed in the first instance to place the company on a positive footing. It is likely to be several years before any new HTS subsidiary will be able to demonstrate capacity, confidence and capability. As a minimum, however, addressing the current backlog would enable the company to release and fully exploit existing resources, whilst demonstrating the delivery of a high quality, efficient service to prospective clients.

5 Key findings relating to the purchase of building companies

One of the options is for the council to purchase an established building company which has the skills and track record currently lacking in HTS. This option if realised would then avoid the need to tender individual packages of works perhaps for multiple small sites which would otherwise be a drain on scarce in-house resources. It would also mean that any profit generated through building contracts would be trapped and recycled.

We have undertaken desktop research, although it should be noted that this is far from an in-depth survey, and we are not able to probe informal networks locally to Harlow. We have been guided by the following assumptions:

- Expertise of building houses
- Scaled to be suitable for small infill sites as well as larger housing projects of say 50-100 units
- A management team with a range of construction sector technical skills
- Is on the market for sale at present.

Businesses for sale are sometimes recorded on websites and we have examined a small sample of these using filters such as 'house builders', 'main contractors' and 'England Southeast and East'. We quickly found that information freely available was restricted to a few headline facts. Probing more detail would rely on registering an interest on the website which we have not done. The results are recorded in the table below:

Website	Results
BusinessForSale.com	<p>2 main contractors:</p> <ul style="list-style-type: none"> • £2.01m revenue, • £5.4m revenue, established family firm, experienced second tier management team, 80-90 employees, clients include Housing Associations and councils
Daltons Business	<p>Several main contractors:</p> <ul style="list-style-type: none"> • Owner run London based building company, t/o more than £1m pa, clients include Housing Associations and councils, established over 20 years. Price £300K • Small company, home based in Derby, t/o £200K, uses established local sub-contractors. Price £100K • T/o £7.6m with an EBITDA of £1.4m. Homes range from £125k to £2m in value. Extensive rental portfolio of mid-to-high-end properties which generates circa £23k per month. An award-winning company which has historically received a high volume of sales based on a positive local



Website	Results
	reputation. Most sites are fully sold before construction has completed, with an additional 5,000 potential buyers subscribed to a mailing list. Extensive pipeline of future work, comprising five new developments set to take place over 2021 and 2022. Strong second-tier management team in place. Maintains relationships with a network of consultants and contractors, including architects, solicitors, bricklayers, and carpenters.

Whilst this falls short of a thorough investigation of building companies that are for sale, from this small sample it is possible to draw out several findings that could inform scoring of this long list option:

- The availability of businesses meeting the requirements of the council is unpredictable and may be undeliverable.
- The range of businesses for sale at any one time is wide from one-man-bands to well established companies with extensive direct labour workforces.
- A purchase price would need to be paid up front to acquire any 'goodwill' or to reflect the value of work in the pipeline.
- Many companies rely on loyal sub-contractors who are tied to a locality, meaning that a company located outside a travel to work distance to Harlow is unlikely to be a practical option.
- The council would need to fix a budget, agree its search criteria, and then appoint a business search specialist.
- Companies may be for sale due to financial strains.

6 Key findings from stakeholder engagement

Local Partnerships has conducted a series of interviews with key stakeholders who have been able to provide a range of perspectives on prospects for a new HTS subsidiary vehicle. These sessions enabled participants to share views frankly knowing that they would remain unattributable. The key findings from these sessions are set out below. Only those findings which are triangulated by more than one consultee are recorded.

6.1 Attitude towards risk

We found that the Council adopts a prudent and considered approach to risk taking connected to its ambitions to construct many more affordable homes. The fact that financial risk is inherent in mixed tenure homes construction is accepted as a given. However, the council is only ready to absorb risk where it has the capability and confidence to manage that risk effectively.

This means that delivery options (for any new HTS subsidiary) will be outside the limits of the council's appetite for risk if they fail to convincingly pin down how essential key skills and competencies will be locked in. The establishment of a new HTS subsidiary will also require seed funding that the Council has not identified.

We found that there is an understanding that upscaling the delivery programme rapidly could be high risk. Consultees agreed that to manage this risk within acceptable limits will best be achieved via tried and tested means, rather than by experimentation.

6.2 Capacity, confidence, and capability with potential involvement

We gathered consistent evidence that the skills and systems required to upscale residential construction within HTS are absent at the present time. This means that HTS is not in a state of readiness to scale up the housing programme in line with targets.

This means that it would take time to attract missing resources into HTS which is at odds with the timetable for upscaling new homes delivery.


We found that the performance of HTS in relation to its current remit is under review. Concerns were raised that any move to establish a new subsidiary vehicle to take on a challenge for which it has no track record, would be at best a distraction and at worst, may jeopardise service improvement measures.

6.3 Motivation

Strong evidence was gathered that the key motivation of the council in wishing to scale up new homes direct delivery is to increase the supply of affordable homes. There are lesser order, although also still important, motivations including diversifying market choice, setting an example around quality of build, and tapping into smaller council owned sites. However, what our consultations demonstrated is that the objective to generate profit through house building was not, in and of itself, a primary motivating factor.

6.4 Escalating Build Costs

All consultees referred to the steeply escalating costs of construction and the difficulties of securing competitive tenders. This problem is widespread across the UK and Local Partnerships is aware of many councils encountering these problems. One council we



have supported recently conducted a tender process, appointed a main contractor and before contracts were closed, the builder had increased the tender price by 35%. This is not a problem isolated to the public sector. We are aware of industrial floorspace developers who are insisting on a day on rent review for new units to take account of increased build costs during the construction phase.

This context probably means that any delivery option favoured by the council for its housing programme needs to mitigate this risk more effectively than other options.

6.5 Skills and resources

We found that resource deficits are a key inhibitor in delivering the intended scale-up of the housing programme. There is broad consensus that if ambitions are to be realised whether inside HTS or within the council's existing delivery team, additional resources will be required. There are skills gaps as well as too few confident client-side officers able to deal with the day-by-day challenges of complex projects. It is widely acknowledged by those we consulted that these capabilities are in short supply and can be difficult to attract into the public sector.

This is corroborated by our experience in Local Partnerships where we regularly encounter council delivery teams who are over-utilised and where repeated efforts to advertise vacancies fail to identify the right calibre of individual. We are also aware of tensions that have emerged where council's have offered more attractive reward packages to staff joining non-Teckal trading company vehicles.

Skills gaps appear to be most apparent in relation to the hoped for 'cross-subsidy model' whereby profits generated by selling full value homes are trapped to subsidise the delivery of otherwise loss-making affordable homes and/or public realm improvements.

Generating profit in house building is a complex challenge which relies in large measure on rigorous cost control (at the level of individual components and packages of works) and a mature sub-contractor supply chain. Well-established house builders protect their profit margin by micro-managing these aspects of the development process for example by:

- national component buying teams who drive down prices to fractions of one penny and forward buy in bulk
- loyal sub-contractor networks who have often worked with the house builder for many years and where the builder is able to generate a pipeline of work for their specialist suppliers
- rigorous in-house processes and systems that monitor spend daily with managers called to account.

We have found that other councils have underestimated the challenges of generating this cross-subsidy profit. We have observed that it is not possible for councils to exert the same levels of efficiency using the building contractor tender route.

Consultees agreed that these capabilities would need to be 'bought in' alongside other skill sets that are currently lacking in relation to the delivery of mixed tenure homes:

- Marketing/branding of homes for rent or for sale to attract customers
- Customer care
- Setting the specification for homes, including fixtures and fittings
- Pricing and market analysis.



6.6 Timetable for establishing the entity

Those we consulted had differing views on the timescales applying to the new HTS subsidiary. Some felt that a slow start to build up confidence from a low base was a justified approach. Others pointed to the need for speed and the policy objectives to increase the pace of affordable homes delivery in the immediately short term.

These are polarised views, so this is not easy to reconcile. It may be possible to consider a fast-track route to early phase projects running in parallel with a slow burn accumulation of capabilities that could pay dividends in say 3-5 years.

6.7 Summary findings from consultations

We have used the following findings to inform the option scorecard evaluation:

- Tried and tested delivery models best meet the council's appetite for risk
- Short term access to practiced skills and track record is essential
- Generating profit in a trading company is less important than delivering more good quality affordable homes
- Making a profit via any untested model is not a given
- Council's find it difficult to sell homes at full market value.

7 Experience of what has worked well and less well for other councils in similar situations

7.1 Sector-wide context

Research undertaken by University College London (UCL) in 2017, 2019 and 2021 has traced the involvement of councils in the direct delivery of new homes. UCL found that in comparison with 2017 and 2019, the number of councils with companies, which may include housing companies and property companies of various forms and objectives, has increased from 58% in 2017, 78% in 2019 to 83% in 2021. Within these figures, there is an amount of churn with council companies, opening, closing, and re-opening. UCL consider that this increase in the number of council companies may relate to the increasing use of JVs to deliver housing, and this has increased from 57% in 2019 to 72% in 2021.

This research⁷ indicates that the number of new homes delivered by local authorities directly in 2021 (from all means, and of all tenures), being a total of 20,249 homes, which is considerably higher than the 8,992 homes reported in the 2018 survey (published in 2019).

From the perspective of Harlow Council considering the possibility of establishing a subsidiary company of HTS, the main findings of this research are:

- The number of council companies that are based on a joint venture (JV) has increased from 57% in 2019 to 72% in 2021. Some councils like Oxford City Council, BCP and Brighton and Hove have multiple JVs
- Keepmoat, MUSE, Countryside Properties, Morgan Sindall, Barnfield and L&Q are frequently quoted by councils as JV partners
- MMC is being explored by councils as part of their direct delivery programmes: Bracknell, Bradford, Redcar & Cleveland, Hull, Walsall, Nottingham, Nuneaton and Bedworth, Corby, and Cornwall
- Liverpool and Merton councils have closed their housing companies and the failure of Brick by Brick in Croydon illustrates that these ventures involve risk. 15 councils in the latest UCL survey have closed, dormant or companies for sale
- Some councils are pooling their land with other public agencies via the One Public Estate programme: Bedford, Derby, South Staffordshire, and Torbay
- Councils delivering high numbers of HRA homes directly on land they own include Wigan (300 units 2020-2021), Cambridge (564 units by 2023), Southwark (2500 units by 2022), Doncaster (407 units 2015-2020). 24 councils stated they had delivered more than 200 units in the past year
- Almost half of new homes delivered by councils were full market value homes for sale or private rent, indicating that councils are aiming to utilise the cross-subsidy model of offsetting the cost of affordable units
- In all cases where direct delivery is progressing at pace, the council has identified a pipeline of multiple sites it owns which is forward committed to the programme
- Councils are adopting a more systematic approach to reviewing their land that could be made available for direct build in either the HRA, via a JV or in a wholly owned Local Housing Company

⁷ https://www.ucl.ac.uk/bartlett/planning/sites/bartlett_planning/files/morphet_and_clifford_2021_-_local_authority_direct_delivery_of_housing_iii_report43.pdf

- The most frequently quoted reasons for not progressing with direct build are lack of suitable land and viability challenges
- The most frequently used methods of funding these interventions by council are using council land and financial resources and the PWLB. Some are using S106 funds and very few who responded to the UCL survey were using bonds, Homes England, hedge funds or the European Investment Bank
- The most important reasons for these interventions were to influence the quality of design, homelessness, meeting housing requirements and estates regeneration. Income generation was the fifth ranked motivation (down from third in 2017)
- JVs with Housing Associations were more common than JVs with developers and JVs with builders, even less common.

Local Partnerships has supported councils over the past 10 years to set up new vehicles, review performance and support improvement actions. The key lessons we have learned that apply to Harlow are:

- Time and money will be wasted if a vehicle is set up in advance of defining a committed pipeline of council land that gives a basis of a forward programme of investment, preferably for 3-5 years. We find that councils encounter problems in getting buy-in to this scale of commitment for an untested initiative. This leads to a modest 'pilot' that fails to demonstrate economies of scale. Initiatives involving in-house staff often falter at this early stage
- Councils find it difficult (and sometimes impossible) to recruit the necessary 'industry savvy' skills due to discrepancies in rewards, lack of political commitment and perceived process heavy handling/decision making structures
- Recruitment of individuals into vehicles on higher salaries can cause resentment which hinders progress
- JVs that lock in a pipeline of council owned sites in ways that confer exclusivity are sub-optimal. Successful JVs are performance dependent, with sites released in phases
- Developing homes for sale or for rent at full market value places councils in direct competition with other established market players: house builders, Housing Associations, and property developers. This is high risk, and some councils have wrongly specified homes, failed to deliver expected customer service, and made a loss on schemes that were expected to provide profit
- Full value homes built by councils may need to be separately branded and utilise sector specialist marketing skills: Durham council's company Chapter Homes achieves this brand separation⁸.⁹
- Successful direct build programmes rely on a small but highly skilled client-side team within the council who have access to framework specialist consultants, demolition contractors and Design & Build contractors. These tight in-house teams have the capability, confidence, and capacity to fulfil a development management role like that outline at Appendix B
- Proportionate PCR developer selection competitions based on template JV development agreement and financial appraisal templates, can encourage good quality bids from both house builders and Housing Associations for a limited pipeline of council owned sites where the council can exert some control over quality, tenure, and programme

⁸ <https://www.chapterhomes.co.uk/>

⁹ <https://democracy.durham.gov.uk/mgAi.aspx?ID=30587>



- Governance of wholly owned companies can be problematic with conflicts of interest sometimes a concern to both company directors and council officers
- The control mechanisms the council wishes to see in place can sometimes jar with the ambitions of wholly owned companies to have the freedom to deliver their Business Plan
- New vehicles should only be established once a viability testing exercise has taken place on the sites under consideration. This should involve an analysis of development constraints, capacity layout plan, high level cost plan and market review. This will resolve to a residual land value assuming a profit margin and can be subject to sensitivity testing.

Whilst it is somewhat dated, the Local Partnerships Delivery Vehicle Toolkit has some useful advice.¹⁰

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¹⁰ <https://localpartnerships.org.uk/wp-content/uploads/2017/07/Local-Partnerships-Housing-delivery-toolkit.pdf>

8 Options evaluation

8.1 Long List Evaluation Criteria

Drawing on the latest UCL research, Local Partnerships experience and the key findings from our consultations in Harlow, we recommend that the long list options under consideration for the new HTS subsidiary be as follows:

- HTS acquire a building company
- JV between HTS and other LA trading Company
- JV between the Council with house builder/Housing Association
- Site by Site tendering by HTS
- Site by site tendering by the council
- HTS appoints an external Development Manager
- Council appoints external Development Manager
- Develop development management skills within HTS

The above long list of options has been evaluated against the following criteria.

- Acceleration/deliverability – ability of the option to rapidly provide scale-up of delivery, as well as be achievable
- Risk transfer – degree to which the option mitigates risk (especially financial risk) to the council
- Supplementing client-side resources – to what extent the option incorporates ready-made commercial skills/resources missing in HTS and the council
- Housing choice and quality – ability of the option to respond to council requirements for unit/scheme specifications
- Small and marginal sites – flexibility of the option to deliver sites where viability is fragile
- Supply chain – maturity and strength of suppliers/partners involved.

The scorecard at [Appendix C](#) sets out how these 6 criteria have been weighted and scored by Local Partnerships considering the consultations undertaken in Harlow.

Consideration has been given to each of the options being explored and these have been evaluated by applying a score of 0-80 in accordance with the following definitions:

Scorecard definitions	
Scores 0-80	Definition
0	Fails to meet objective/challenge
20	Weak contribution to objective
40	Partially meets objective
60	Strongly meets objective
80	Fully meets objective

8.2 Results of scoring exercise

The results of the detailed scoring and results are attached at [Appendix C](#). An extract summary is provided below.



Results of the Delivery Options Evaluation	
Delivery Option	Score
HTS acquire a building company	44
JV between HTS and other LA trading co	44
JV council with house builder/Housing Assoc	71
Site by site tendering by HTS	26
Site by site tendering by the council	36
HTS appoints external Development Manager	57
Council appoints external DM	57
Develop DM skills within HTS	27

The highest scoring option is the Joint Venture with a housebuilder/Housing Association. A JV between the Council and a housebuilder/Housing Association would fully meet or strongly meet the majority of the Council's objectives.

Joint second is the appointment of a Development Manager (DM), either via HTS or the Council. This would fulfil the objective of progressing sites through technical due diligence, planning and delivery via a design and build contractor route. However, this option leaves all financial risk with the Council. Additionally, it is likely to be slower than securing a joint venture as two compliant tender processes will be needed: one to appoint the DM and a second to appoint a building contractor. Furthermore, this option does not enable increased access to supply chains which may still prove a constraint to accelerating development delivery.

Whilst the acquisition of a building company and a JV between HTS and other local authority trading companies have scored third highest it is questionable whether either of these options are deliverable. It is only remotely possible that a highly reputable building company capable of bringing the requisite skills, supply chains and capacity to meet the council's objectives can be readily identified. Given that several LATCos are well established in this region and HTS currently suffer from performance related questions associated with maintenance backlog, again it is questionable as to whether this option can become a reality. For these reasons, we have not expanded on these options in our recommended shortlist below.

The development of DM skills within HTS and site by site tendering by HTS were the lowest scoring options. Essentially, neither of these two options meet the Council's objective of accelerating housing delivery. With respect to the development of DM skills in HTS this would take time to achieve. In addition, site by site tendering by HTS is likely to prove less efficient in terms of cost and time, than the higher scoring options highlighted.



8.3 Shortlist of Options

The scorecard results demonstrate that the preferred delivery option is a partnership between the council and an experienced house builder via a contractual development agreement. There would be no involvement of HTS in this scenario.

The council’s existing delivery team comprises a core of relevant client-side skills. This model envisages this team procuring a joint venture partner via a compliant process and entering a risk and reward sharing contract. This model can be used to deliver both individual sites (such as in Harlow town centre) or projects and pipelines of sites which may be a blend of good and not so good opportunities. It is the model that is most often used by councils in social estate regeneration programmes. The table below sets out characteristics, advantages, and disadvantages:

Contractual Joint Venture
<p>Characteristics:</p> <ul style="list-style-type: none"> • Procurement via open tender in accordance with Regulation 29 of the Public Contracts Regulations 2015 (“The Regulations”): Competitive Procedure with Negotiation • Council sets objectives (e.g., quality, type, tenure) and retains control of the land – land is transferred on phase completion • Passive client-side role for the council limited to monitoring • Active client-side responsibilities for the partner who assumes the role of master developer (including all DM) providing all necessary skills
<p>Advantages:</p> <ul style="list-style-type: none"> • Tried and tested mechanism familiar to the market • Precedent legal documentation • Proven compliance with PCR • Transfers financial risk • Quick to implement • Missing skills provided by the partner • Blended multiple site pipelines can help to mobilise stalled or difficult projects • Mechanism for achieving cross-subsidy • All development finance is raised by the partner
<p>Disadvantages:</p> <ul style="list-style-type: none"> • Requires expertise in preparing tender documentation • Partner will seek a protected profit margin • Good quality bids rely on supplying reliable site-based studies to all bidders, needing up-front investment prior to tender launch

This mechanism is long-established in local government and has been applied in varied market settings from viability challenged to prime. We recently supported a council who had failed on two previous occasions to attract a delivery partner for 3 brownfield sites in a low value area surrounded by social estates. A tender pack was prepared with a template Development Agreement and financial appraisal. Start of work to tender launch was 6 weeks with the open tender process taking less than 3 months. A high-quality partner is now in contract for 300 mixed tenure homes and an extra care unit.

Development Agreements can incorporate a range of roles for the council from passive to active, depending on appetite for risk and in-house capabilities. This model can deal with pipelines of multiple smaller council owned sites, single town centre high profile mixed use



projects and estates regeneration programmes, where incremental decant and demolition is required.

Experience in the sector has shown that this model is able to attract bids from both house builders and Housing Associations. The open tender process enables comparison between difference target profit margins and other metrics that feed through the financial appraisal to produce a residual land value: overheads, preliminaries, contingencies, professional fees, interest rates, unit construction costs, external works costs and so on.

Implementation of this preferred delivery model would require the council’s team to be supported either by procurement and legal service officers or to appoint an external firm of lawyers who are able to produce:

- Overarching Development Agreement for the pipeline or site
- Residential Phase Agreement
- Call Option Agreement
- Licence (to enable intrusive surveys on the council’s land)
- A paper on Subsidy Control informed by the short-listed bids/preferred bid
- Procurement advice to ensure compliance
- Legal advice on bidder mark-ups and to support bid evaluation.

Appointment of a Development Manager (DM)
<p>Characteristics:</p> <ul style="list-style-type: none"> • A service contract for a fee often based on a percentage of project cost • Single procurement process to access a bespoke service to strengthen the client side • Use the skills of the DM to: <ul style="list-style-type: none"> ○ procure a design team ○ procure a building contractor
<p>Advantages:</p> <ul style="list-style-type: none"> • Provides immediate access to practiced commercial skills • All day-to-day tasks outsourced from concept stage to completion • Increases the credibility of council procurement processes by demonstrating commercial awareness • Suppliers tend to be niche consultancies who have had industry experience • Reduces recruitment/headcount risks • Scope of service can be tailored
<p>Disadvantages:</p> <ul style="list-style-type: none"> • Numbers of good quality suppliers are limited, and interest will be dictated by their availability • Only limited capacity building of the in-house team • Keeps the council’s partners/suppliers at arm’s length • No financial risk transfer from the council • Does not eliminate the need for client-side abilities in-house

One council we supported recently undertook a tender to appoint a DM. They received 6 bids and had a range of good candidates from which to choose. Interestingly, that council needed their DM not only to act as intelligent client (largely self-starting) to oversee the procurement and management of a design and build contract for a passive house scheme, but they also needed the DM to undertake marketing and agency services to sell the full market value homes (cross-subsidy model). This blend of skills was found to be achievable with the DM bringing in estate agency and branding experts as sub-suppliers but where



the DM nevertheless retained performance responsibilities. Bidders fees ranged from 3-6% of construction value.

Whilst the scope of service for a DM can be tailored to match the nature of the scheme, we attach at [Appendix B](#) a suggested set of requirements which the council could adapt.

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9 Summary and conclusions

Based on our review of background papers, the consultations we have undertaken, our desktop research and informed by our experience working with many councils, we conclude that the most effective way of scaling up the direct build programme is by the appointment of scheme or pipeline specific joint venture partners. We have concluded that this is best done within the council's delivery team rather than in HTS as there is already a cohort of skilled officers in this team.

We conclude that one of the most immediately effective ways of supplementing the in-house team to better enable acceleration is by the appointment of a Development Manager. This could be an interim solution whilst the in-house team is expanded or as a training ground for more junior members of the team who could shadow the activities of the DM.

Whatever delivery route is selected, we consider that the council will need to invest in upfront survey work to fully understand the delivery constraints attaching to its site pipeline. We know that high quality bids from JV partners depend on the availability of this information. Informal market engagement prior to launch of the tender process will enable the council to test appetite to bid and may help to shape the invitation to tender.



APPENDIX B

DEVELOPMENT MANAGEMENT

General

- Assemble the professional team and assign roles and responsibilities
- Prepare all contacts and documentation relating to the professional team, contractors and suppliers
- Lead and manage the professional team, establish effective methods of communication and monitor performance
- Monitor and manage the overall planning, co-ordination and control of the project
- Provide all advice and reports to the council to enable it to fulfil its role
- Issue a monthly report to the council covering all aspects of the development including design and construction progress, team performance, programme, planning, financial management and commercial status.

Professional Team Appointments

- Agree all appointment details and formal appointment documentation via a competitive process to achieve best value to the council
- Advise on the establishment of an architect's panel and a Design Champion
- Prepare and agree fees for all appointments
- Check and monitor the renewal of professional indemnity insurance of the professional team and the contractor having design responsibilities in relation to the project.

Delivery Plan

- Prepare and keep updated the project Delivery Plan
- Review the council's needs and requirements, including design standards and specifications, performance criteria, financial criteria, programming and phasing, procurement strategy and marketing strategy
- Prepare and submit phase proposals for council approval in line with the Delivery Plan

Surveys and Feasibility Studies

- Make recommendations to the council as to the surveys and investigations which should be undertaken (e.g. measured, topographical, building surveys, environmental, geotechnical, archaeological and asbestos surveys) and arrange their procurement and satisfactory completion
- In order to provide phase proposals to the council, to prepare and submit development feasibility reports which should include (i) outline design and specifications, (ii) financial appraisals (iii) programmes, (iv) construction costs (v) market reports, (vi) planning reports, (vii) title matters and (viii) development risks.

Design

- Supervise the development and co-ordination of the design of the phase projects through all RIBA stages
- Manage the transition from the approved Masterplan into phased design concepts and monitor and keep under review from inception until practical completion
- Provide a robust design programme and monitor progress of this through the appropriate design stages for each phase. Oversee and monitor the progress of design development alternatives to achieve affordable and time effective solutions and to advise on change management procedures for the council's approval.
- Report to the client from time to time on selection of materials, building systems and equipment, availability of materials and labour
- Ensure that the professional team consult with and that they obtain all appropriate consents from all necessary authorities and statutory undertakers.



Planning

- Lead and manage the relevant members of the professional team in order to obtain the requisite, viable planning permissions for the project, including negotiating the Section 106 Agreement and negotiating affordable housing viability.
- Ensure that a full programme of public consultation and stakeholder engagement is arranged and implemented
- Monitor, manage and negotiate any Reserved Matters applications, conditions discharge and/ or amendments through the S96a or S73 process
- Attend meetings with the local planning authority and other stakeholders, including representing the council at planning committee if required.

Procurement

- Ensure that works the Council is funding are procured compliance with the council's legal responsibilities and its Standing Orders
- Manage the procurement of works packages such that the prospective contractors provide a fixed price for the works, including advice on forms of contract
- Manage the procurement of service packages such that prospective suppliers provide a fixed percentage fee
- Advise the council as to the list of tenderers for the works and services contracts, including technical suitability, capability and experience, financial covenant strength and other appropriate checks
- Make recommendations for the council's approval as to the tender awards to be made
- Advise on the need for quality assurance schemes, defects insurance and product guarantees.

Construction

- Put in place appropriate construction contracts following the award of a tender
- Ensure that the professional team monitor the quality of the works and that they works are completed on time and to budget and in accordance with agreed plans
- Monitor the works contractors' general performance related to all material matters of proper site management and safety
- Report and advise on any proposed material variations or extensions of time identified by the professional team under any building contracts and assess the impact of any such variations on the project
- Monitor the valuation, payment and variations procedures under the building contract(s) and provide monthly cashflow reporting against all project costs
- Manage the professional team in the preparation and conclusion of final accounts, including the closing out of defects and any post occupancy issues
- Produce all necessary record drawings, operation and maintenance manuals necessary to the effective operation of buildings and spaces.

Financial

- Keep updated and provide financial reports to the council not less than quarterly in formats as may be required by the council's Director of Finance
- Work with the professional team and client to maximise the financial performance of the programme and phase projects within it, including testing phasing options, sensitivity analysis and programme implications
- Propose financial management and cost control procedures
- Forecast phase project completion costs and dates
- Monitor all cost reports prepared by the professional team both capital and revenue



Marketing, lettings and sales

- In conjunction with the appointed joint sales and letting agents, prepare a branding and marketing plan with justified budgets
- Oversee, monitor, and report the delivery of this plan including records of all enquiries from interested parties

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