Appendix A

Outline Business Case for the Leicestershire District Councils collaborative Development Company

Leicestershire District Councils collaborative working Group, led by John East.
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Contents

Outline Business Case

1. Introduction

Strategic and Local Context:

1.1 There is a requirement to meet Housing needs across Leicestershire. The direction of travel from Central Government to Local Authorities is for additional housing to be provided, Councils are also obliged to fulfil their 5-year housing supply requirements and meet demand for the longer term in accordance with their Local Plan, as well as fulfil their landlord objectives. Certain Districts also have wider regeneration and town centre improvement objectives. There are statutory, social and political needs to fulfil.

1.2 District Councils hold packages of land which may be suitable for development. The Councils are obliged to ensure that VfM is achieved in respect of any related transaction, and to maximise use of such public assets. At the same time resources within individual Councils are limited, particularly in terms of skill base and capacity to be able to independently undertake schemes of this nature. Certain Districts have been able to develop some housing on a small scale, but are limited by resource, capacity and cost. The nature of development is such that Councils acting independently are limited in what they are able to deliver.

1.3 A number of Leicestershire [i]District Councils have considered options for the potential establishment of a collaborative vehicle or similar which could be used to efficiently provide the expertise on behalf of the participating Districts to drive forward development and provision of the housing products and regeneration outcomes which they have prioritised.

1.4 The company is intended to provide councils with the expertise and capacity to carry out development by sharing the costs and therefore benefiting from the economies of scale. The company is not intended to be the asset holder, and a parallel business case will be developed looking at housing companies or centrally retained within agreed arrangements.

Collaborative assessment:

1.5 Four local authorities; Charnwood, Melton, NW Leicestershire and Oadby & Wigston are considering a partnership to create a company to lead regeneration development in local areas which will address the need. An Options Appraisal has been undertaken and is presented within this Outline Business Case (OBC). It is noted that Blaby District Council were initially considering being party to the company, however their circumstances are unique, in that they do not have housing stock nor currently have areas of land which are ready to be developed which are immediately available. At this stage Blaby has decided not to formally participate.

1.6 A common vision has been considered which addresses the Councils' corporate priorities for regeneration recognising the need for supply that meets local requirements and the need to ensure that they have control and share the risks and rewards associated with the regeneration. The Councils' dominant purpose in taking forward any proposal for a company is to bring forward sites for development in their areas, whether those sites remain in the ownership of the Councils or are otherwise transferred to other Council companies and in doing so enable access to joint expertise in promoting and managing development, thus ensuring that they are able to promote regeneration and the effective supply of housing. Participation in a company may result in the Councils sharing in profits generated although this is not a dominant purpose of the Councils in considering such a company, and is incidental to the regeneration and housing purposes outlined above.

1.7 There will be different approaches to the provision of housing and the affordable element. It is proposed that these will be addressed separately by the local authorities individually or their housing companies, with a jointly initiated company at the centre of the scheme to enable implementation of participating development initiatives.

1.8 The Company will be established by the participating Councils and will act as the lead developer on specific terms decided on viability and commercial models.

1.9 The Company will also have to be flexible, agile, responsive and act with pace to meet the needs of the shareholders by utilising its technical strength and position in the market over time. Further advice will be required on the legal relationship between the parties, but in principle the Company could act as a management contractor taking governance and procurement requirements into account.

1.10 The Company could be established in various forms. Detailed below in this paper is an assessment of the different options and an analysis which considers the needs of the Councils, and the structure of the company which would best meet those needs. The commercial considerations have been set out by Councils and most explicitly state that control, pace and financial risk awareness are key considerations.

1.11 The Shareholders/Partners (in this case the Councils) and the Company will adopt the principle of "surplus for a purpose" in ensuring that the required return expectations are met.

1.12 There is a need to fully investigate the financing arrangements and how these might differ for each option. This includes the need to consider the arrangements for the funding of the company, or any Housing Companies, and the development projects that are to be delivered. Scale and ambition cannot be met if the financing required is a risk too far for the participating authorities. Further examination of the funding requirements is considered within this OBC.

Draft vision statement

1.13 "In creating a Company, the Councils in Leicestershire will increase the housing supply, regeneration and commercial outcomes that meet local need, ensuring that long term value is maintained in publicly funded assets."

Why should the Councils jointly establish a Development Company?

1.14 The establishment of a development company (DevCo) is subject to an options analysis, this is set out within this OBC. The options analysis considers a number of options and reflects the advantages and disadvantages of each to determine the appropriate basis for Councils individually and jointly, to enable development.

1.15 Underlying the need for this OBC to consider a development company is the fact that such a company could offer the opportunity of a platform to enable each Council to deliver their strategic development objectives on a controlled and managed basis. The company being owned and controlled by them under a formal governance structure.

1.16 The development activities which the initiative is intended to enable, would then generate value for the respective Councils or help the Councils meet social and housing objectives.

1.17 Currently the Councils individually are limited by resource to be able to develop their land and assets, but this shared and controlled approach for a development company would enable the hurdles and restrictions that Councils are facing individually to be overcome.

1.18 By setting up a company (on a basis and form determined by the options analysis), the participating Councils will have access to jointly owned resources of a technical and specialist nature which each individually does not currently have. The shared cost of such resources would otherwise be at a total cost to each Council individually, should they need to provide for such resource themselves to meet their development requirements. Or represent a cost to the individual Councils to resource, procure and manage.

1.19 As a public sector initiative, value attained from land and assets would be retained within the public sector.

1.20 It is proposed that Councils support the scheme and their individual projects with funding, and that this may also offer opportunity for income to Councils in respect of certain asset types.

1.21 Set out within this OBC is a summary of benefits. Approval is requested to progress this initiative to Full Business Case (FBC) stage to enable further detail to be provided to inform the final case for the establishment of a development company. Councils may then individually assess the FBC and commit or otherwise to investment in the vehicle with colleague Councils. At this stage, only approval to move to FBC is requested, subject to the recommendation at the end of this document.

2. Key priorities

The key priorities of the Councils have been identified and are as follows:

2.1 Mixed use development activity that delivers development benefits including housing and commercial use.

- Councils have set out their policy and approaches to development in each area in their Local Plans and individual Needs Assessments. There are common approaches, challenges and opportunities across the County as recognised in their Local Plans and strategic housing assessments.
- The collaboration between local authorities in establishing a company will be to ensure as much flexibility and agility as possible in order to bring forward development by operating outside the ways in which local councils work.
- It will have the ability be a leading partner in key housing regeneration schemes and be a recognised in the local market as an active and serious player.

- The company will be backed by the participating authorities acting together and making timely and consistent decisions.
- Provision of sufficient land that will benefit all the participating authorities. One consideration will be how those with limited development assets can be assisted.
- Participating Councils have access to different assets and different delivery objectives which the company will need to be able to service, work with and progress for development.

2.2 Housing outcomes meet local need reflecting affordability and people's income

- A consistent approach to the provision of house types and tenures and accommodation for all of the communities is to be taken. However, each Council will need to determine its own approach
- Most Councils would see their own housing company holding market and sub-market tenure units and at times a separate arrangement for rented units at affordable levels.
- A key driver for the non-social rent units is to ensure a level of surplus for the Councils but this driver relates primarily to the operation of the Councils' housing companies and not to the establishment of a company where the key drivers are set out above.
- Addressing statutory housing needs is also an issue for some Councils and the acquisition of street property and other stock will also be included if supported by strong viability testing.

2.3 Scale and Pace

- The participating authorities have several potential regeneration and development proposals, planned or forecast.
- The Company will support individual Councils' proposals to have an active role in the control of delivery, but the exact legal relationship will be dependent on the outcome of the options appraisal and proper consideration of legal implications.
- Each Council will make investment decisions taking into account the impact on the company and its own position. The scale and ambition of the overall initiative will be dependent on the rate of flow from participating Councils. Each scheme will need to be supported by funding and financial investment decisions made by the respective Council, as well as by the supply of development sites.
- The company and the Councils will set out property specifications from the outset which reflect viability, value for money and the Councils' approach to quality policies.
- There are several reviews of land, assets and office/commercial buildings in the general fund (GF) and Housing Revenue Account (HRA) that will provide Councils with more accurate information and options for disposal. This will enable a four year indicative pipeline to be agreed.
- The Company will also be able to act as a Management Contractor providing a range of services such as technical advice, design and cost consultancy. This will be dependent on how the company is structured and whether the company is an internal facing company or a legally compliant external/market facing business.
- The company will not have exclusive access to development opportunities and each Council will retain the right to pursue alternatives if pace and viability expectations cannot be met.
- Although the company will not have exclusivity, it is important for the initiative that agreement is reached on a basis for commitment of a flow of projects over a prolonged period to the scheme from all Councils to enable economies of scale and fulfilment of shareholder objectives.

2.4 Surplus for a purpose

- Councils seeking to increase the supply of housing overall also want to take a greater control in the local area across all tenures including private rented sector housing (PRS) and town centre regeneration schemes. Councils are prepared to take the risk and retain the value of their investment
- Councils will act as shareholder and funder, they must ensure that each role is different and accept that at times it may be contradictory. Governance arrangements within Councils and within the company will be established to ensure appropriate control of differing interests.
- As the provider of funds Councils will need to act commercially assessing risk and provide funding on commercial terms. Councils will only approve viable schemes which are shown to meet that Council's lending requirements.
- As shareholders/partners and funders Councils will expect not only a return on funding, but also to receive the benefit of future capital growth. Returns will depend on performance including that of the market over the term of the respective development schemes.
- Councils will generally have to borrow or use their own resources and assets to fund developments and will expect to make a return on loans and fees. One Council referred to this as being risk aware and it is critical that the financial position of each Council against that of the Company is properly set out.
- How the surplus is returned to the investor and shareholder/partner will be dependent on several options which will have different taxation implications.

2.5 Control

As well as ensuring delivery at pace and ensuring a calculated risk and reward approach, the Councils see control as key.

- Governance processes will be established for the company with control of the scheme at its heart.
- Each Council will appoint members with a casting vote agreement.
- It is recommended that lead members and chief officer influence over the operation of the company is managed through the shareholder function (for those operating executive arrangements), noting that this is an executive matter (for those operating executive arrangements) save where matters are outside of the budget and policy framework.
- Separate governance arrangements will need to be put in place by each Council to make decisions about land that it owns (or that it owns through its local housing company).
- A Business Plan will be submitted and approved in line with an approval stage process ensuring that the shareholders, funders and company have full opportunity to consider all relevant issues in advance of formal decisions
- Each Council will have the right to replace their members on the board and reject or amend the Business Plan including making recommendations at the draft stage.
- The Councils will control the viability conditions and ensure that no scheme that they are involved in can progress without funding.
- There will be security over assets through the funding arrangements and control of business bank accounts through a cascade mechanism.

3. Outline Options Appraisal

The Leicestershire District Council Working Group have set out the following options for the creation of a jointly owned company for further assessment and consideration. The options assume that the Councils' future decisions on individual developments are not restricted and remain available. For example, a Council or local housing company will not grant exclusivity to the Development Company (DevCo) or a third party.

3.1 **<u>Options in detail</u>**

3.2 **Traditional Options – Sale of land for capital receipt**

For many years, councils have used disposal of land to generate a receipt or support Registered Providers (RPs) to develop in their own areas. This approach carries less risk as the development risk is passed to the third party in exchange for full market value and/or nominations rights. However, once the land is sold, the Council has little control and any future asset value increase is to the benefit of the third party. There are some measures that a council can take, but any restrictions will have had a negative impact on the value of the land.

In the last few years councils have been able to build using HRA resources including Right to Buy (RTB) receipts. There are no GF benefits other than New Homes Bonus (NHB). Building directly, enables the Council to control the developments and retain the units for the long term unless sold under the RTB. However, the funding for such development may be limited by the Borrowing Headroom (although the Prime Minister has announced that the borrowing cap will be lifted, no details have been provided of what this will mean in practice) and HRA capital funding available. Within this regime, there are significant restrictions on the products that can be created and rent levels that can be set/achieved.

3.3 **Each District acts alone**

Currently, districts have the option to combine the development and landlord roles through one housing company, although this may have tax implications. Some limited activity relating to development and sale could potentially be undertaken directly by a Council provided that it acts in compliance with its housing powers. Residential rental activity for the Councils is limited by the Councils' housing powers.

The option of acting alone has the benefit of each district focusing on their own outcomes, at their own pace and not being restricted by others' limitations or contrary expectations. The extent of risk and how they are controlled, is limited to its own developments. However, the benefits of joint working are not achieved. One of the original considerations for a joint development arm was the collective strength that acting together would bring, especially by sharing resources/developing joint expertise, having a greater market strength and benefiting from economies of scale.

In terms of market presence, a smaller player will have less purchasing power and its overheads and technical skills base may not be fit for purpose especially on a limited pipeline of development. The principles for joint working also offer the flexibility of still being able to act alone when it is appropriate to do so. Land disposal also continues to be an option.

3.4 **Entering into a Joint Venture (JV) or Development Agreement (DA)**

These are well tested routes that local authorities have been carrying out for the last 20 years. Case law has provided clarity around procurement implications, but these are both positive and negative. Precise delivery outcomes from the outset are vital, as making changes further down the line is potentially complex and costly. The control that the authority retains is a contractual one and depends on the terms of its own investment. Getting to the agreed position may be lengthy and internal or external skills will be required to protect a Council's position. As one off, JVs or DAs are a good option, but the more Councils that are involved, then the greater complexity and the number of unknowns. In terms of development pipeline, this may increase the risk of additional costs, legal hurdles and prolonged timescales.

Dependency on a third party who is a private sector partner may also carry unforeseen risk, not only in terms of cost but also in relation to time, and influence by the third-party shareholders who may have other interests and priorities that could affect performance and ultimately reward to the Council whose scheme it is.

A joint venture may (depending upon how it is structured) require a public procurement process. A development agreement invariably will because it usually involves a contract for services, supplies and works.

3.5 **A Joint Collaborative Development Company (DevCo)**

The option of a Collaborative Company has been considered on the basis of two separate companies that operate sharing the same board and resources:

a) a company focussed on delivery to the Councils (Teckal), and

b) a company focussed on delivery to the market that develops land that it owns and provides supplies, services and works to third parties.

a. Company that has an inward focus to deliver goods, services and supplies to the Councils - Teckal company

This is the option of a company controlled by the Councils which is able to carry out development on behalf of the Councils. It has the benefits of being able to operate more competitively/flexibly than the Councils but is still required to comply with public procurement law when it engages with the market. The prime benefit is that the relationship between the Councils and the company falls outside of the public procurement regime. To achieve this the company will need to be a Teckal compliant vehicle passing two basic tests:

- the control test, and
- the activities test.

The Councils will be the sole shareholders and will exercise control over its affairs achieved through the governance structure. Further legal advice is included with this document. Within the advice it is confirmed that such a company must carry out more than 80% of its turnover (over three years) for its shareholders/partners. The company can undertake activities for non-controlling authorities, but these can only account for 19.99% of its overall activities.

b. Outward facing company

The clear distinction of an outward facing "commercial" company is that it operates just like any other developer or private sector company. This means that the Councils cannot contract with it for goods, services and works without following a public procurement process but the company itself should not have to comply with the public procurement rules when it engages with the market. This can give the company significantly more flexibility in how it acts and designs its business than the Council itself or a Teckal company.

3.6 Two reports: Market information on development specific delivery vehicles: The rise of Local Housing Companies (Published by the Smith Institute – 2016) and Local Authority Direct Provision of Housing (Published by the Royal Town Planning Institute and National Planning Forum – 2017) set out the various options which councils have taken to deliver housing directly through housing companies, the experiences of those authorities and what they have delivered, and some of the issues. These reports are contained in Appendix 5 and 6 of this report.

3.7 **Table 1: Summary of Options**

Option	Benefit	Loss	Opportunity	Risk
Traditional Options				
Land disposal to private party	Immediate Capital receipt	Once sold, Council has limited control	Capital receipt available to support council's priorities	Units mix and standards only controlled through planning process
Land disposal to RP	Delivers affordable housing and nominations rights	Long term value retained by the RP	Can use RTB receipts	Nominations agreement may be time limited.
Build in HRA	Council retains units	Borrowing headroom may be limited	Can seek grant from HE	Housing Acts and rent control restrictions
Do Nothing - Each District acts alone	Able to set its own pace and not be restricted by other Councils' decisions Control over risk Locally focused Individual Housing Company (if they have one) act as developer	Economy of scale: Company costs Development costs Shared skills and experience with greater opportunity to standardise. Position in the market as a smaller player No new benefits gained May not be able to deliver to the scale required on a sole basis	Local control	Scale does not justify overheads If using Individual Housing Company then would need to ensure development/rental activities are structured for tax efficiency purposes.

Entering into a JV, development agreement or similar with a developer	Market tested and generally delivers what was agreed in contract Delivery pace once agreed Share of the risks and rewards as defined Land contribution as part of financial investment	Clarity about outcomes required when going to market Control and reward depending on the contract terms 'One size fits all' may not suit the Council for all its programme Value generated from public sector assets and initiatives is shared with Private sector	Utilising private sector expertise JV interest can be sold	Four Councils agreeing collective terms for JV or similar Could be more inflexible or changes at the cost to the Councils Being tied to a single partner Harder to exit if outcomes are not delivered Risk of dependency on private sector partner Relationship with private sector partner must comply with the public procurement regime.
Establishing a Collaborative Development Company (DevCo) – **Inward facing company (Teckal)**	Economies of scale Shared resources and expertise Focus on approved business plan Relationship with the Councils falls outside of the public procurement regime Able to deliver Council objectives Land receipt	Upfront set up costs Bound by public procurement law when it contracts with the market.	Able to invest and grant aid affordable housing Benefits from long term value	State aid compliance Takes market risk and reward Land disposals must comply with national law (best consideration)

Establish a DevCo – **Outward focussed company (CDV)**	For profit company free to operate as a private sector organisation It has greater freedom than the Councils and even if it acts commercially/makes a profit the Councils can still set the agenda. Land receipt Should not be bound by public procurement when its engages with the market.	Cannot take on works and services from the Councils without procurement compliance Land disposal at market value even for affordable housing	Investment at market rates Maybe be viewed as a stronger player as not restricted by Council's objectives	All transactions as with private companies, therefore certain transactions will be more complex Development of affordable housing will be subject to strict viability State aid compliance
Establishing a Collaborative Housing Company	Ability to pool assets, investment and share outputs Particular benefit for those with limited land	Complex pooling agreement and sharing agreement Host council will need to justify loss of local benefits Housing priorities/delivery driven by the Company, not by local autonomy Danger that Company moves at the pace of the slowest	Procurement specialism and contract management Pipeline of development control	Follows public sector rules Lack of local support may lead to inaction

4. Scoring the Options

The options appraisal will be scored against the set-out priorities. Each priority is scored based on the headings set out above, taking into account how the Council will be able to:

1. Deliver Mixed-use development;
2. Provide Housing outcomes that meet local need;
3. Achieve Scale and pace;

And enable

(a) opportunity to maximise its **Return**; and

(b) how much **Control** it will have in ensuring that outcomes are delivered.

The score awarded will be high 4-5, medium 2-3, low 0-2 and multiplied on the same basis by return and control.

The final score for each option will the sum of 1 to 3 multiplied by the sum of a +b.

The total scores for each option have also been moderated by any individual disadvantages as explained in the narratives below.

The approach to scoring reflects that each of the Councils may have differing needs, purposes and priorities, and the joint position relative to how an option may best serve the participating Councils.

4.1 **Traditional routes:**

1. 5
2. 3
3. 2

Subtotal: 10 multiplied by

a. 1
b. 1

Total: 20

The scores reflect the risk that the Council is passing on to the third party but also reflect that selling individual plots will take time and that the development pace will be determined by the market. Equally, they reflect that while receipts will be available, the Council will not retain the long term value and control over developments. The HRA new build option has not been scored as it similar to the option below.

4.2 **Each District acts alone:**

1. 5
2. 5
3. 2

Sub-Total: 12 multiplied by

a. 3
b. 4

Total: 84

If each Council chose to act independently, it will have full control over the final outcomes in that it decides when and what to develop without external considerations. It can decide to carry out some developments and then stop if it chooses. However, its opportunity to maximise returns will be limited by the internal resources that it will require.

The scores need to reflect that in acting alone, it will not share the economies of scale, standardisation, expertise and knowledge of a long term development company that it owns with other Councils. Equally, setting up a local housing company or development team on its own will require the same skills and resources but at a cost which will not be as viable as contributing to and sharing the services of a collaborative DevCo. The scoring for criterion 3 has been lowered accordingly.

4.3 **JV Option:**

1. 5
2. 3
3. 2

Sub-Total: 10 multiplied by

a. 2
b. 3

Total: 50

For a JV to be successful there is a need for clear objectives. The private partner will need clear information about the requirements. Failure of the procuring Council to provide this detail from an early stage represents a risk to both price and the outcome of the project. The JV will be also be expected to be allowed to operate independently and outside of the Council focussing on growth, pace of delivery and cost reduction for the Councils. The temptation to make the JV another corporate directorate that acts in the same way as others needs to be resisted. The scoring for criterion 2 is therefore lower than for other options. The criterion 3 score also reflects the procurement complexity and time that it will take to establish it.

The biggest benefit of a joint venture approach is the coming together of parties to pool resources and share risks. However, setting up a joint venture and getting it right can be a costly exercise. It also involves sharing out the benefits generated by a project, so each party gets a smaller slice of the pie. Most joint ventures involve parties with partially overlapping interests – when their other interests come to the fore, difficulties often arise. Difficulties also arise where projects have to be changed or are aborted after expenditure is incurred.

The scoring for criteria a and b is reflected for these reasons and the fact the Council would have to share any of the benefits with the JV partner.

4.4 **Collaborative Development Company (DevCo) Option**

1. 5
2. 5
3. 3

Sub-Total: 13 multiplied by

a. 4
b. 4

Total: 104

The scoring for this option for the provision of a development company collectively has been set on the basis of the Councils acting as shareholders and investors and therefore controlling the objectives and outcomes, subject only to viability and planning policy. Outcomes including financial benefits arising from the development are also for the benefit of the participating Councils, rather than for the financial benefit of 3rd parties.

The scoring for criterion 3 is dependent on the level of investment and time taken to start up the business. Criteria a and b score higher because of the control that the Councils will retain over projects and the company, and also as the Councils will not have to share any savings or surplus with a 3rd party. However, they also need to reflect the costs the council will need to incur to support internal activities such as treasury management, and the need to incorporate the company(s) from an accounting and financial reporting perspective.

4.5 **Collaborative Housing Company Option**

1. 5
2. 3
3. 2

Sub-Total: 10 multiplied by

a. 4
b. 3

Total: 70

Criterion 3 has been scored on the basis that as a housing company the vehicle would have other purposes other than to enable development, as a consequence there may be some conflicts as to purpose and priorities. As a commercial entity it is also unlikely to be able to service requirements for the development of social assets as required without further complexity to the proposed structure. Further, the collaborative company's principle of pooling and sharing resources and outputs irrespective of where assets are built would need a complex agreement addressing collective and individual requirements. To succeed the company will require a degree of autonomy and ability to avoid deadlock scenarios, which could potentially have an impact on control. However, this may have a positive impact on the ability of the company to operate more commercially.

4.6 **Table 2: Summation of Option Appraisal Scores**

Option	Score	Comment
Traditional	[20]	Sale of land for capital receipt
Each District acts alone	[84]	Effectively Do -Nothing, as this is the current status quo
Enter into a JV, Development agreement	[50]	With a third-party private sector contractor
Collaborative Development Company	[104]	Teckal/Commercial Development company to service Inward looking and Outward looking development requirements
Collaborative Housing Company	[70]	Use of a Housing Company to undertake development

4.7 **Recommendation:** based on previous discussions, the group of chief officers recommend that the DevCo option is the preferred route and based on legal advice, two companies are formed as set out above. The proposal for two companies is suggested within the legal advice received in order to ensure the maximum flexibility for the Development Vehicle. Thus, DevCo will comprise of:

a) A TDV – a Teckal Entity which is purely focused upon delivery of supplies and services and works to the Councils, for example it would be able to efficiently manage affordable housing delivery, and

b) A CDV – a commercial delivery vehicle, being an outward facing entity that operates on commercial market terms, for example it would be able to develop PRS schemes. It may also work for third parties and be able to develop land itself for sale to the market.

4.8 This option requires 2 operating companies to be established for accounting purposes. The structural contractual relationship between the 2 operating companies is yet to be determined and will form part of the process for FBC. However, at this stage it is thought possible that CDV could be a subsidiary of TDV, or act as sister companies.

4.9 It is also considered that the companies would be operated jointly and in parallel, the differentiation being the type of business, and funding requirements that relate to each and for the funding needs of the business types that they will respectively undertake.

4.10 For the purpose of this document any further reference to either 'the Company' or 'DevCo' may mean either the Teckal 'TDV' or the commercial development company 'CDV', unless specifically stated otherwise.

5. Benefits to the Councils anticipated from jointly establishing a DevCo.

5.1 The following benefits have been identified:

- A key objective of the initiative is to provide a basis which will enable development to take place. The commissioning of a vehicle dedicated to this purpose enables this.

- As a jointly commissioned vehicle with an agreed programme over the life of the 3-5 year business plan, the costs of establishing a DevCo are shared, enabling access to the company and its benefits.

- As a public sector developed initiative, profits and returns are retained for the individual participating Councils.

- Delivery of a programme comprising of individual Council developments offers the opportunity for economies of scale, standardisation and potentially cost savings compared to those that a Council would otherwise encounter on smaller individual developments.

- The DevCo is to be structured and resourced so that a range of development types will be accommodated, and projects accordingly brought forward which might otherwise not be able to be economically resourced within individual Councils.

- Development activities on projects will be undertaken by the DevCo providing capacity or releasing resources within Councils to enable other projects or initiatives to be fulfilled. The approach may enable certain tax and other trading benefits to be achieved, subject to the final structure, prevailing tax regime, and independent tax and accounting treatment advice.

- It offers an alternative to conventional development mechanisms that Districts may have had to rely on, and the issues that these may carry such as negotiation of joint venture arrangements.

- The DevCo is to be staffed with experienced industry resources providing experienced support to Councils, local knowledge and advice.

- The DevCo will enter contractual arrangements with specialist suppliers, potentially offering volume discounts.

- As shareholders/partners in the vehicle participating Councils will have control through the shareholder decision-making process of the activities of DevCo.

- The procedures proposed are to ensure that schemes are only taken forward where viable and returns are projected to be achieved.

- The vehicle will enable assets to be developed which will be assets of the respective participating member Councils which will offer opportunity for income from sales, or value from rent revenues and sale over time where contracted with a Housing company.

- For Councils who wish to use the initiative together with their Housing company to develop a PRS scheme it offers the opportunity to build a flow of income derived from rents received and to accumulate value in assets that are held for rent at market rates over the longer term. The assets being held and owned by the Housing Company.

- The vehicle will potentially enable larger scale schemes to be entered into, compared to those which a district might individually be able to develop due to resource restrictions. For example, regeneration initiatives.

- Properties developed and held in a Housing company are anticipated to be outside of Right to Buy requirements however it should be noted that the Councils cannot set up a Housing company for the purposes of avoiding the application of Right to Buy.

6. Relationship between the Councils and Governance - Overview

6.1 The principles of the form of relationship between the Councils for the conduct of the initiative and the basis for the operation of the company has been discussed at a high level. It is suggested that with legal guidance a form of partnership agreement might be entered into in order to set out the principles. This would need to be developed further at FBC stage and would include aspects such as commitment to the scheme, basis on which projects are introduced, whether the company is to receive first refusal for qualifying projects (where the company is able to fulfil the delivery requirements), and other matters such as time frame for participation. It would also include the commitment to fund the company and should include the principles agreed for the handling of abortive costs and for the sharing of such costs where all participants might be liable.

6.2 The agreement would also make it clear that individual Councils would be able to influence delivery of schemes being undertaken by the company on that individual Council's behalf. The document would also include reference to the basis of governance that is agreed between the Councils for the company and for the operation of the scheme. Further details on governance are set out within this OBC.

6.3 Diagrams:

Diagram 1: Principle of joint ownership of a collaborative development vehicle

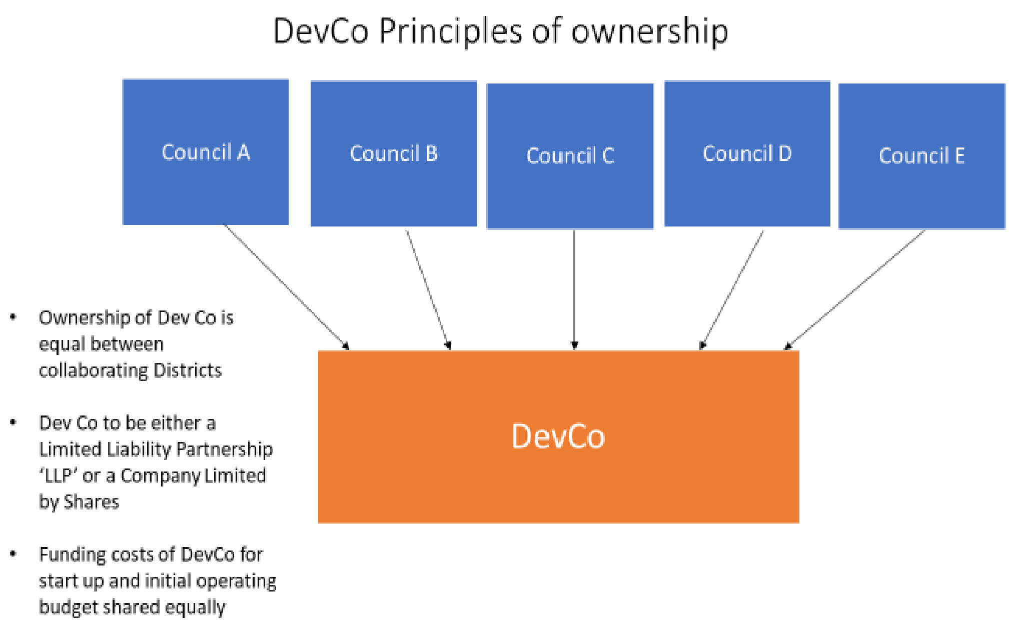
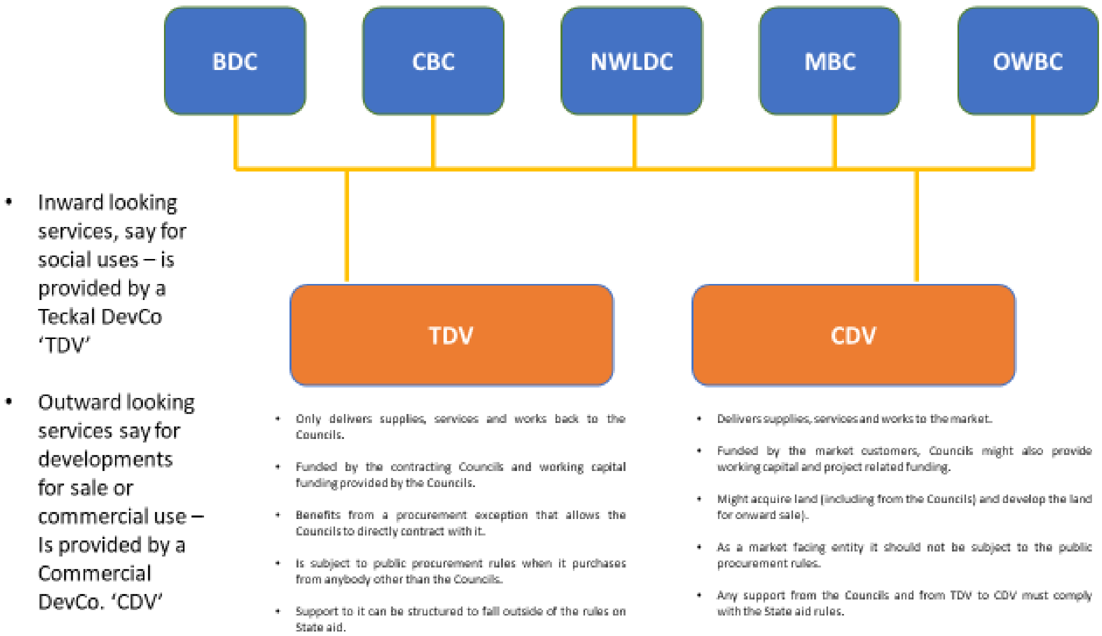


Diagram 2: Proposed Relationship structure chart*



Note *this and the following diagrams are illustrative as Blaby will not now be participating in the initial set up.

Governance

6.4 There will need to be an established set of parameters and working boards with certain delegated responsibilities that will enable the company to operate effectively and in accordance with the requirements of the shareholders/partners. Control is a key requirement of the Councils.

6.5 The shareholders/partners will need to agree individual decision making processes and a collective shareholder governance arrangement.

6.6 The potential governance structure is likely to be different for a Company Limited by Shares 'CLS' compared to that which is a Limited Liability Partnership 'LLP'.

6.7 As the decision as to whether the company will be a LLP or a CLS is to be determined as part of the FBC, shown below are diagrams which reflect the structure suggested by the legal advisors for CLS and LLP respectively. The governance structure is proposed in order to enable the degree of control and independence whilst also enabling effective operation of the initiative, and will be considered further at FBC.

Key points for Governance and Decision making are:

6.8 The Councils will take decisions in different capacities including:

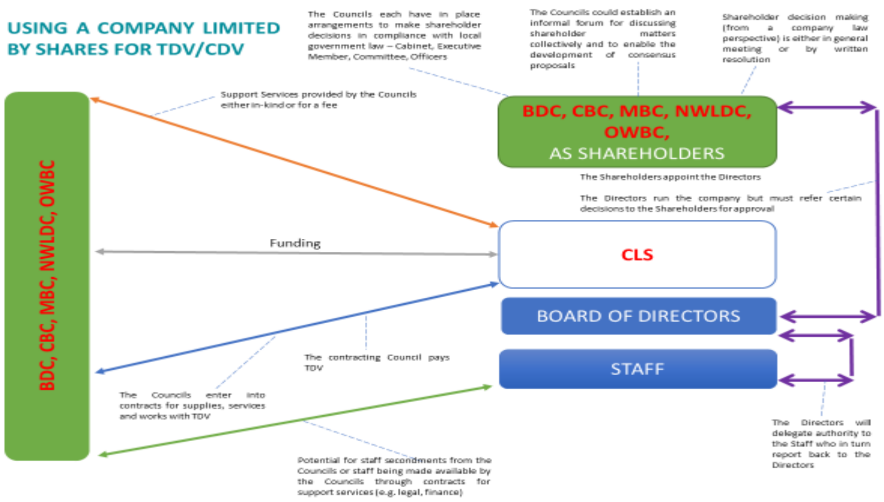
a) As a commissioner – focussed on the delivery of supplies, services and works back to it;
b) As an owner (Shareholder or LLP Member) – how the company operates and what it does;

c) As a lender/funder.

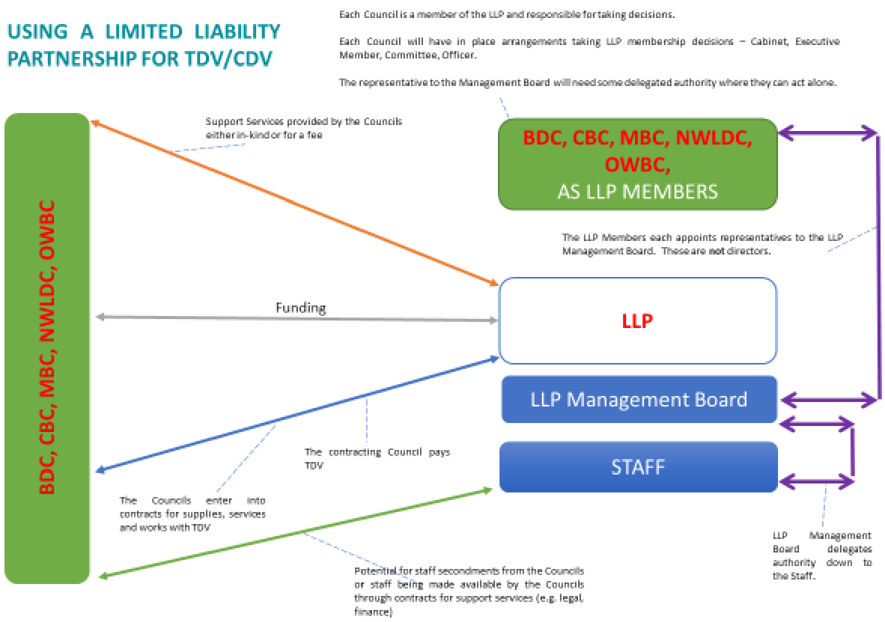
6.9 Officers and Elected Members must ensure that conflicts of interest do not arise – e.g. Directors of a company should not be involved in Council shareholder decision making. Officers and Elected Members might be involved in decision making where the Councils are acting in different capacities.

It is important to have clear terms of reference and defined areas of responsibility which also enable control. The following diagrams illustrate the proposed structures for governance to address this.

6.11 <u>Diagram 3: Proposed Governance Structure where the company is a Company Limited by Shares 'CLS'</u>



6.12 <u>Diagram 4: Proposed Governance Structure where the company is a Limited Liability Partnership 'LLP'.</u>



6.13 The above diagrams set out the relationship proposed between the Councils as shareholders/partners and the operation of the company. Integrated within the governance arrangements shown above there will need to be a defined decision making process to agree an investment strategy and how decisions will be made. An approach to this is to have an Investment Panel with an agreed decision making process which may be at LLP Management Board/Board of Directors level with 'authority' delegated from the LLP Members/Shareholders subject to defined limits and delivery of a Business Plan. Alternatively, the Investment Panel can sit outside the formal company arrangements, but this will be decided at FBC stage.

6.14 The Business Plan for the company is a key document that will be agreed at Partner/Shareholder level based on planned projects and investment requirements which the company will be required to work to.

6.15 The key responsibility of the Investment Panel or similar will be to decide whether an investment should be made or not, taking into account viability, risk and delivery. The company will need to operate on set financial principles. For example, if the Company purchases land or is commissioned to carry out a specific development, the Investment Panel will sign off, or not, the scheme as viable and whether it is projected to achieve the required financial outcomes that the Council expects. It will not be for the Panel to refuse the funding on the basis that the development is not in line with the Council's objectives.

6.16 Councils will also need to have a process in place for their Housing Companies when the decision is taken to use the vehicle for the commissioning of development.

6.17 Collectively, Councils will approve, reject or request changes to the Business Plan on formation of the Company and thereafter annually (or more frequently as the Councils require). In terms of individual schemes in each locality, it will be for the Council concerned to reserve their rights to approve them or not. Councils will need to agree how approvals take place and whether a collective Reference Board duplicates or supports local decision making.

6.18 Summary of the principles of governance arrangements relative to decision making:

Internal local decision making process for each council

- Local developments
- Funding decisions
- Formal approvals
- Commissioning arrangement for LHC

Joint decision making

- Terms of reference to be agreed by FBC completion
- Financial performance of company(s)
- Annual business plan

7. Investment Decisions, Indicative Development Pipeline and Resourcing the Development Company.

7.1 The DevCo will collaborate with the Councils and Housing Companies through an agreed investment protocol. This will not duplicate the role of the Shareholder (described above). Each

Council will act as the funder and it will ensure that each scheme is viable taking into account the Council's and the Housing Company's position.

7.2 The DevCo (and Housing Companies if involved in a scheme) will need to set out their proposals and an application for funding of a project to the respective Council who is to fund and invest in the scheme, having considered pre-agreed KPI's for the project and its viability. Different schemes are likely to have different outcomes, but all must be demonstrated to be viable in order to support the funding decision. Different types of schemes include: Affordable Rented, Intermediate Affordable, Private Sales, and Commercial schemes.

7.3 Proposed KPI's are set out at Appendix 7.

Development Pipeline

7.4 The development pipeline for a jointly owned DevCo will work on the basis of a collectively funded development core, but with individual agreements for each scheme funded by Councils individually. The development pipeline in the first three years, as an indicator of construction costs and company's resource requirements, is anticipated to be circa 100 units per shareholder. This is to ensure that funding and development risks are controlled. At this stage the development costs are the critical concern, not the end use which will be a viability exercise between the individual council and housing company.

7.5 Information provided by individual Councils has enabled a high-level pipeline to be assembled. The detail of the pipeline is provided below and in a larger format as an appendix to this OBC by way of a spreadsheet attachment (Appendix 4).

7.6 **Table 3: Summary Pipeline**

Council	Total units	Affordable Flats			Private Flats			Affordable Houses		Build Costs Flats			Build Cost Houses		Total
		1 (35%)	2 (50%)	3 (15%)	1	2	3	2	3	1	2	3	2	3	
Charnwood	200	9	12	4	51	73	21	18	12	5910000	9477500	3000000	1521000	1650000	21558500
Melton	200	9	12	4	51	73	21	18	12	5910000	9477500	3000000	1521000	1650000	21558500
NW Leics	75	0	0	0	10	20	0	25	20	985000	2230000	0	3137500	2750000	9102500
Oadby & Wigston	280	29	42	11	66	99	26	4	3	9357500	15721500	4440000	338000	412500	30269500
Total Dev	**755**	**47**	**66**	**19**	**178**	**265**	**68**	**65**	**47**	**22162500**	**36906500**	**10440000**	**6517500**	**6462500**	**82489000**

7.7 The figures and costs used are not market tested and are not therefore the final costs. Future regeneration and town centre schemes may also be included. This is subject to development plans, appraisals, further design and procurement strategy.

Resourcing the Development Company

7.8 It is intended that DevCo will be resourced in line with business requirements and an assumed operational budget has been built up on this basis. In order to minimise costs during the earlier years it is proposed that DevCo will operate from a participating Council office for the first 3 years, and then potentially move to its own premises subject to the outstanding pipeline at that time.

7.9 An indicative operating budget together with supporting assumptions is shown within the appendix and is in excel format. The detail shows that the highest cost is for staff. It may be possible to reduce these costs by purchasing experienced staff resources from Councils on a time restricted basis, if they have the required expertise available.

7.10 The following table is a brief summation of the key outputs from the assumed/indicative operating budget. It excludes VAT and funding for working capital (cost of borrowing input).

7.11 **Table 4: Indicative Operating Budget of the DevCo – Years 1-5**

Cost type	Year 1 £000	Year 2 £000	Year 3 £000	Year 4 £000	Year 5 £000
Staff	189	280	320	380	390
General overheads	59.9	53.3	54	75.6	71.8
Other Project related	90	120	95	95	90
Total	338.9	453.3	469	550.6	551.8

7.12 It will be for the Councils to agree and determine the resource requirements of the DevCo and to set the operating budget accordingly as part of the Business Plan. At this stage the assumed operating budget and resources proposed have been considered by the Working Group and will be developed in further detail for the FBC.

7.13 It may be that in formulating the Business Plan, and fee and income structure, the Councils determine that a specific level of profit or surplus be generated, either for reinvestment in DevCo, or as an income by way of dividends/profit share. Equally any losses arising from performance against the Business Plan would need to be addressed by the Councils.

7.14 It is therefore suggested that the Business Plan for the DevCo, when agreed by the Councils, should seek to ensure that the assumed pipeline is deliverable, or that there is sufficient pipeline and fee income committed to enable costs to be covered and the principle of a positive return to be achieved.

7.15 In principle from the table for the pipeline and estimated build costs presented at 7.6 above, it can be seen that a fee of just 2.5% of build costs would generate income for the DevCo approximate to the operating budget assumed for the first 2 years, based on a projected pipeline of 200 dwellings a year. This is given as an example to illustrate that even a fee only basis could in principle enable the company to operate profitably, although of course it will be for the Councils to set a fee/basis of income in line with the pipeline appropriately. This does not include any income from development of assets on land that it has acquired.

7.16 The following is an extract from the operational budget as currently assumed and presented. This shows indicative staff numbers for the first 3 years. The actual costs and budget will need to be determined by the Councils in joint agreement as part of the Full Business Plan process.

7.17 **Table 5: Indicative DevCo Staff Numbers and Costs - Years 1-3**

			YR1	YR2	YR3
Assumptions	**Financial Year**		**2019/20**	**2020/21**	**2021/22**
			Start up cost		
10 months yr 1	MD/Head		84,000	100,000	100,000
6 months yr 1	Devt Manager		40,000	80,000	80,000
PT 12mt All in costs	FD (PT)		50,000	50,000	50,000
2 head from end yr 2	Junior staff			30,000	60,000
Resource to meet peaks	Bought in time		15,000	20,000	30,000
Districts option to recharge for representation, from end year 3	Directors time		-	-	-
	Total		**£189,000**	**£280,000**	**£320,000**

7.18 The level of investment in staff would be reviewed as part of the governance process and could be reduced or increased in accordance with the flow of work and fees earned. The principle is that the company would be generating a sufficient level of income from the pipeline of projects to fund its costs including the level of staff proposed by the end of year 2. This will be developed in detail for the FBC and informed further by the detail of the development pipeline.

7.19 Individual Councils have already carried out development and have the benefit of testing the market for new build costs based on comparable quality and standards and these are reflected in the table mentioned above.

7.20 Potentially developing around 50 units each per year would require investment to be included in the participating Councils MTFS later in the financial year. Each Council will need to allow for the costs including any land costs (if applicable), and the Working Capital required for the company in order for it to be able to set up and commence development activities.

8. Overview of the DevCo

What type of business will each DevCo develop?

Various scenarios in respect of what participating Councils may need to be delivered have been considered in order to confirm that the proposed approach is able to meet their needs. The scenario table is set out in Appendix 2.

The following considers the characteristics of TDV and CDV and provides some examples of schemes for illustrative purposes.

Teckal Development Company (TDV)

8.1 TDV will be the relevant vehicle whenever a Council wants to enter into a contract with TDV which may be for minor works or full-scale development of directly owned Councils assets, which remain Council assets during development.

8.2 As TDV is an inward-looking company its purpose is to provide goods, services and works to Councils and (on current proposals) does not acquire land.

As an example, it could develop a site for a Council to provide stock which may on completion return say 20 affordable units for the HRA. It could in the same contract also develop say 10 homes for sale and be instructed by the Council to help manage the sale, but the assets and sale proceeds are for the Council.

8.3 When such assets are sold they must be sold at market price. It would also be possible for a Council to develop assets through the Teckal intended for long term private rental use, however, such assets would need to be sold on completion by the respective Council to their Housing Company at market value. The Housing Company would then own and manage them. This example is illustrated in the diagram below.

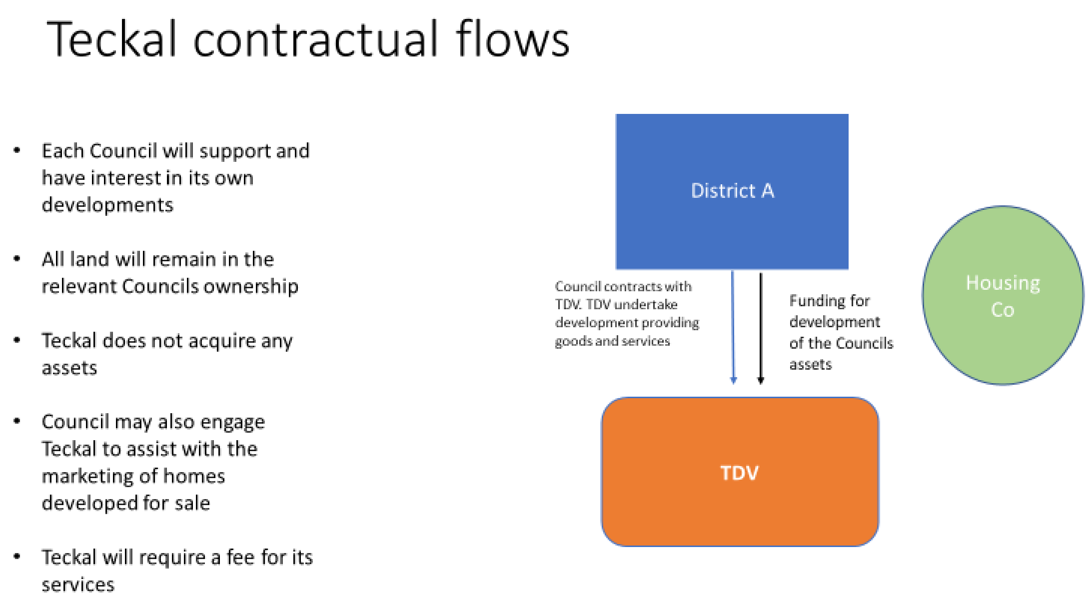
8.4 As it is inward looking there is no requirement on the Council engaging for the work to follow procurement requirements to procure the TDV.

8.5 In order for the Teckal to operate positively, there will need to be a form of renumeration agreed, perhaps by way of a conditions of engagement (to be determined by way of agreement between the Councils).

8.6 As it is inward looking the funding of the development may be on a basis as determined by the Council concerned. With affordable homes, to enable a rent to be set below market rent levels, the funding might include a form of subsidy/grant.

Whilst TDV is focused on servicing the Councils inwardly, it can have just under 20% of its business outward looking, and so may on occasions manage such business where it is efficient to do so, however, this would be unusual as a CDV is also proposed.

8.7 Diagram 5: TDV is engaged to develop land and generate housing assets



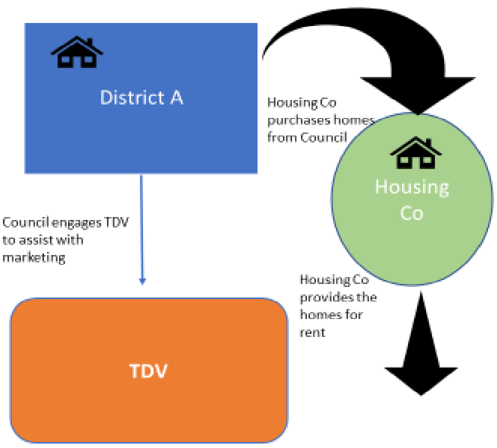
8.8 What happens to an asset once built by the DevCo is for the respective Council to decide.

8.9 Diagram 6: In this example, on completion some units are retained in the HRA, others are sold to the Housing Company who will let them for long term rent. (Other options also noted include sale to the market with TDV engaged to implement the marketing).

Contractual flows on completion

- Teckal has completed the development of the homes
- Council may engage Teckal to assist with the marketing of homes developed for sale
- Homes can be;
  a) sold on open market,
  b) sold to Housing Co and held to meet housing objectives including rental (as shown)
  c) Form part of the housing stock in the HRA (as shown).

Receipts received from sale help repay Council development funding



Commercial Development Vehicle (CDV)

As the CDV is outward looking it will be able to operate in the open market without any procurement restrictions and be free to compete. It will be able to buy land and to develop land for sale.

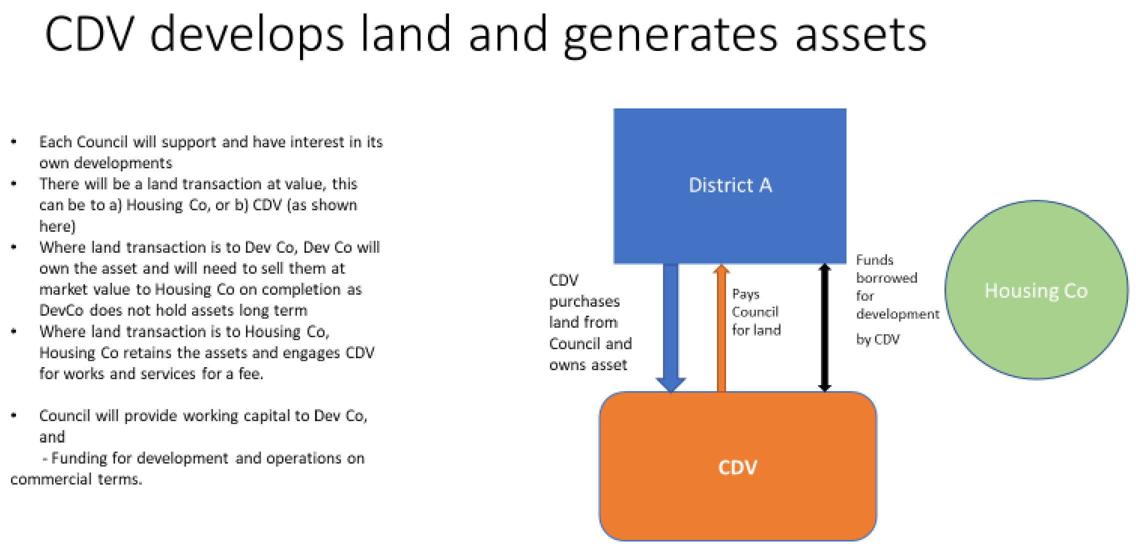
8.10 It can also fulfil a role of providing goods and services and entertain contracts which may be for minor works or full-scale development of assets owned by third parties. To this end it could therefore in principle develop Council owned assets provided that the Council has engaged it following an open procurement, (however, the need for this is unlikely as the proposal is to also have a Teckal company which would fulfil this function).

The CDV would be able to:

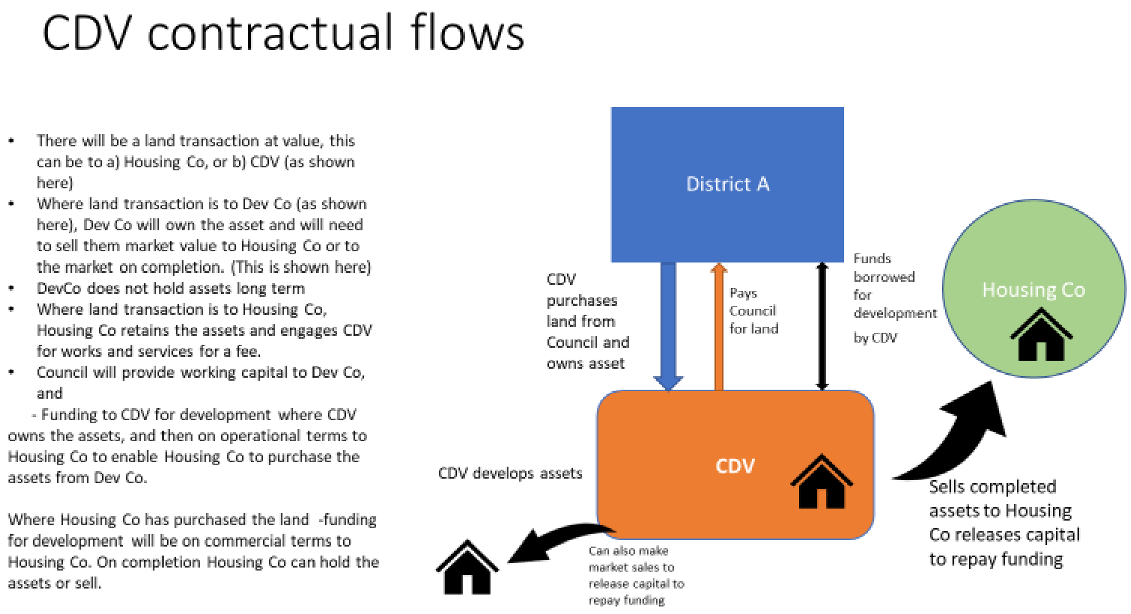
a) Purchase land from a Council at market value and develop it for sale itself;
b) Purchase land in the open market and develop it for sale itself; or
c) Be engaged by a Council's Housing Company to provide services to develop land owned by the Housing Company. In this case the Housing Company may have purchased the land from the Council, and the asset will remain an asset of the Housing Company;
d) Undertake engagements involving works and services from Councils and Housing Companies. In the case of works directly from Councils, that would need to be following procurement by the Council, which might be through a framework;
e) Undertake engagements directly with third parties.

8.11 As an example, it could acquire land from a Council and develop that site to build stock which may on completion provide say 20 units which could be sold to the Housing Company to fulfil this purpose, or to the Council (subject to SDLT provisions). The houses could also be sold to the open market.

8.12 Diagram 7: The diagrams below shows the example of land sold to CDV who develop the site, then on completion CDV sell the completed homes to the Housing Company and to the open market.



8.13 Then following completion:



8.14 A further example (as noted in the diagrams above) is for the Housing Company to acquire the land from the Council, and for Housing Company to engage CDV to develop the site, following which the assets are retained for the long term by the Housing Company.

8.15 As CDV is outward looking there is no requirement to follow Council procurement requirements. The same applies to the Housing Company where it is assumed that the relationship with the relevant Council will not be Teckal compliant. Instead, the Housing Company will be outward focused, like the TDV.

8.16 For the CDV to operate positively, it may attain value from sale of assets and/ or attain a fee for goods and services provided. There will need to be a form of remuneration agreed, perhaps by way of a conditions of engagement (to be determined by way of agreement between the Councils).

8.17 As it is outward looking the funding arrangements need to be state aid compliant and will be on commercial terms.

9. Funding

9.1 There are two aspects of funding of this initiative to consider:

1) The funding requirements of the DevCo;
2) The funding needs and form of finance required to fund individual projects for construction and long term.

The funding requirements of the DevCo

9.2 It is assumed that the funding will be provided by the Councils for both the operation of the DevCo and the funding of projects. It is assumed that the Councils will fully support the DevCo with funding directly and receive a return on the funds provided.

9.3 As with all development projects it is assumed that in order to fund projects, the financing of individual schemes will have the benefit of a security package, secured by charges over the respective assets.

9.4 The DevCo effectively requires finance for 3 different purposes:

a) Capitalisation of the business;
b) Funding of day to day overheads and operational business costs. These are costs that as a business which employs staff and runs an office it will need to incur;
c) Funding needed to develop projects. These are typically expected to be costs that relate to the development of schemes.

a) <u>Capitalisation of the business</u>

9.5 Subject to the form of the company that is decided upon, it is likely to be either a Company Limited by Shares (CLS), or a Limited Liability Partnership (LLP).

9.6 Both are likely to require some funds as a capital investment, which for the CLS would be through the issue of shares. In addition, as set out at b) above, both would need loans from the Shareholders/Partners to enable the business to operate. The extent of the requirement for share capital or Partnership investment has not yet been determined and is to be considered as part of the FBC. This would be determined through agreement between the participating District Councils.

b) Funding of day to day overheads and operational business costs

9.7 Whatever the extent of the capital invested, a balance in the form of loans will be required. It is proposed that such loans may either be in the form of a bullet loan or working capital facility and will be provided by each of the participating member Councils equally.

9.8 A driver of the interest rates and terms applied against the facilities is the need to comply with the requirements relating to state aid, consequently, the commercial vehicle CDV must be funded with facilities that mirror those available in the market.

9.9 At this stage in respect of working capital Loans to the CDV, an interest rate of circa 6% over base is assumed, subject to market comparisons at FBC.

9.10 For the TDV, as this is an inward-looking vehicle servicing the participating Councils, it is assumed that a lower rate of interest may be applied, (subject to legal confirmation relating to the status of the TDV for state aid).

The Size/Scale of funding facility that may be required for DevCo operational business costs

9.11 To gain a sense of the extent of funding that may be required to enable the business to meet its operational overhead costs during the initial years a draft operating budget has been assumed. This is provided within the appendices (see appendix 3). Although it is very high level at this stage and is subject to further consideration and firming up of key costs at the FBC stage, it helps provide an indication of the level of working capital/loans that may be required for the first 2 years. It should be noted that these figures currently exclude VAT, debt servicing costs and remain subject to change.

The actual operating budget will be determined by the Shareholders and agreed annually as part of the business plan, as set out within the section on Resourcing.

9.12 The level of funding requirement indicated from the assumed operating budget provided in the appendices, for the first 2 years is summarised in the following table:

Table 6: Assumed Operating Budget of the DevCo – Years 1-2

	Year 1 £000	Year 2 £000
Total of operating costs for DevCo from assumed operating budget (excluding VAT) and cost of funding – Shared costs	338	453

This funding would be provided by the participating Councils jointly. It is probable that the company would earn fee income within this period and reduce the level of requirement, however, for prudency the full operating budget to be set by the Councils as part of the Business Plan should be provided for.

9.13 As there are likely to be 2 different vehicles, it is not proposed that the funding requirement will be double, rather that this be a budget for both companies, the budget being based on overhead costs including staff, which is the largest single cost.

9.14 The consideration is only for the first 2 years as it is suggested that it be an objective within the Business Plan set by the Councils, for the company to be able to generate sufficient income to service its debts and become self-sufficient within 2 years. This period is suggested as it relates to initial developments within the pipeline provided by the Councils which are anticipated to be in construction or have reached completion by the end of this period. Thereafter, the plan should provide for the company to have sufficient income to cover its operational overheads and also repay remaining working capital loans which relate to the funding of base operating costs.

9.15 Within the costs assumed in the operating budget, there are some that may qualify as being of a project expenditure nature, for example, the portion of staff time that may be incurred on the development of a project. As the purpose of the company is development, various costs may fall into this category.

9.16 When a scheme is sufficiently developed to the point of entering a construction contract, development funding facilities may be entered into to fund the construction. The costs incurred during development of a project to that point will form part of the facility. Consequently, when the construction loans are entered into funds would be released for qualifying expenditure, enabling repayment of this aspect of the operating budget working capital facility.

This means that a much lower net position on base costs may arise. The following table illustrates this:

Table 7: Net Assumed Operating Budget of the DevCo – Years 1-2

	Year 1 £000	Year 2 £000
Total of operating costs for DevCo from assumed operating budget (ex vat) and cost of funding – Shared costs	338	453
Element of costs assumed to apply to development (forms part of individual Council project funding costs)	278	400
Net cost - Net shared costs assumed, after repayment from project funding	60	53

Source: Assumed operating budget.

As can be seen, provided that the costs which are assumed to be appropriated to development of a project, are able to be utilised (as per the information provided by individual Councils), then the Net Costs which the Councils would jointly need to provide for reduces from £338k excluding VAT for year 1 to £60k, and from £453k to £53k for year 2. It is worth emphasising however, that the full value would need to be funded in full as working capital jointly until such time as projects reached the point of entering construction contract, or alternatively that it was agreed by the benefitting Council(s) to fund such costs directly.

9.17 Project related expenditure may (subject to qualification and accounting advice) if apportioned to a project be able to be capitalised. Independent tax and accounting advice will be required during the FBC stage to ensure that the company (and the relationship Housing Companies) are established to work effectively and efficiently on a compliant basis.

9.18 For clarity the operating costs assumed in the Operating Budget are in the main base costs such as staff, and certain core project related costs which the business would need to provide to perform its objectives. Other costs that a scheme will attract will need to be funded separately, by individual Councils as described at c), below.

c) Funding needed in order to develop projects

9.19 Details regarding the funding of development projects is provided within the appendix. Please see appendix 8. The key principles that apply to the funding of the projects directly are as follows:

- Social assets that are owned by a Council will be developed through the Teckal company and funded directly by the Council. The basis of that funding will be determined by the Council and may include use of subsidy (where compliant with State Aid law).

- Other non-social assets will be funded on a commercial basis in order to be compliant with state aid requirements. The facilities, rates and terms will be those that are prevailing in the market at that time.

- As land and assets subject of such development will have been acquired by the DevCo or Housing Company, the funding provided by the lending Council will be to the company that owns the assets, to enable the development.

- For every scheme a viability assessment will be undertaken, and projects will only be brought forward for funding where it is evidenced that the loans are capable of being repaid in full, inclusive of returns on the funding lent.

9.20 For the early stages of the development of a project, the funding from the respective Council is anticipated to be in the form of working capital. This will then be repaid on entering into the construction phase (Development Finance).

9.21 Development finance facilities will reflect those available in the market for developments through the CDV (or Housing Company). Details of typical funding facilities together with example rates and terms are set out for reference in the appendix.

9.22 As the DevCo is not able to hold assets for the long term, any financial commitments of the DevCo relating to the development of projects will be repaid following completion. This may be through sale of the assets or refinancing where assets are intended for long term use such as rental. In this circumstance, the refinancing will be on Operational Finance terms provided to the company who will own them for the long term (such as a Housing Company). Further details of the Operational funding facilities, including example rates and terms are set out within appendix 8.

9.23 Whilst the development costs of a project are repaid when a project reaches a point of entering construction, there is a risk that a project may not mature or may fail. To mitigate against this, it is proposed that DevCo provides a service of reviewing all opportunities at an early stage and provides a viability report. Thus, the intention is that there will be checks and balances to ensure that unviable or flawed schemes, or those which carry excessive risk are not progressed.

9.24 It is currently assumed that any costs incurred relating to failed projects are a risk equally to the Councils where such expenditure is not able to be appropriated to the failed project but will be solely for the sponsoring party where specific development expenditure has been incurred. The process for this is to be determined as part of the FBC.

9.25 Similarly, where a project is delayed, and interest costs arise as a consequence, the risk of the additional interest is apportioned as described. It is important that as part of the governance that a process is put into place to oversee project progress and the early viability assessment for investment. See investment protocol, above.

Minimum Revenue Provision (MRP)

9.26 Subject to advice at the FBC stage MRP may need to be provided for in respect of a certain portion of the funds for construction and long term finance where the funding provided by the Council is not repaid within a specified framework. The use of funds raised from development (sales) may help reduce or relieve the need for such a provision subject to each Councils own considerations of whether the requirements for this are met within the detail of a specific scheme. Where it is considered that the provision should be made, this may form part of the costs to the lending Council of the project and be addressed as part of the development strategy applied to the scheme.

9.27 At this stage it is thought that if a provision were to be required it would most likely arise following commitment to any long term/operational funding to the Housing Company.

9.28 The funding profile and repayment schedules including any need for provisioning for MRP would be considered in the model and an assessment provided for the evaluation of the project.

Practical considerations for Councils

9.29 It should be noted that whilst the DevCo provides capacity and technical resources as well as the basis for development to deliver an increase in the volume of homes more speedily than would otherwise be the case, there will also need to be some consideration of the change in the status quo within the Councils and respective roles and responsibilities.

9.30 As an example, the provision of funding will need to be facilitated, and whilst the flow of loans may be irregular (relative to a single Council), there will be a need for an officer to be allocated responsibility when required to ensure that operations work from the Council perspective, such as for approvals, release of funds, and also monitoring.

9.31 The formation of the company will also mean additional financial reporting. Representation on respective boards, is also a consideration.

9.32 Respective Roles and Responsibilities

Setting out the respective roles of the Finance officers within the DevCo, Housing Company, and Local Authority, they would have the following responsibilities:

Development Company Finance Director

- Involvement with the development of a scheme from an early stage including the case for the assessment of the viability of a project and appraisal of the funding requirement.
- Initial drafts of the loan agreements and applying the product mix and commercial rates in line with state aid/transfer pricing report. Liaison with respective lawyers appointed to complete the development and funding transactions.
- Preparing and signing off the DevCo accounts in sufficient time to inform the LA Statement of Accounts deadline.
- Accounting for Corporation Tax applicable to the DevCo.
- Producing all internal DevCo returns and reports.

Housing Company Finance director

- Preparing and signing off the Housing Company Accounts in sufficient time to inform the LA Statement of Accounts deadline.
- Accounting for Corporation Tax applicable to the Housing Company.

Local Authority Finance Team

- Point of liaison with DevCo for provision of funding, and reporting.
- Assuring for the authority that the loan agreements are in line with legislative requirements and the business plan and is in the best interests of the Council. This will need to be undertaken for every loan for each company (although schemes could potentially be batched).
- Identifying the appropriate accounting treatment of the loan in the revenue account and in the statement of accounts in line with IFRS9.
- Incorporating the revenue and capital implications of the DevCo into the council's revenue and capital budgets.
- Incorporating the Development company accounts into the LA Statement of Accounts under Group Accounting requirements.

9.33 As a guide and taking into consideration the assumed operating budget net of project costs, the potential initial costs estimated to enable this initiative to progress through OBC to FBC and into implementation are shown in the table below. Such costs would need to be reassessed at FBC stage, but would be shared between the participating Councils.

9.34 **Table 8: Costs of DevCo from Initial Consideration to End-Year 2 Operation**

	Pre trading £k	**Year 1 £k**	**Year 2 £k**	**Cumulative**
OBC	£35k	-	-	£35k
FBC	£50k	-	-	£50k
Implementation/ set up	£30k	-	-	£30k
Trading – assumed net position (as above)	-	£60k	£53k	£113k
Total	**£115k**	**£60k**	**£53k**	**£228k**

Note: a) this excludes the funding of projects by individual Councils, and the interest costs/ funding of the DevCo working capital facility. b) The costs are based on a net position after VAT, and assuming repayment of qualifying project costs. c) Figures to be updated for FBC (following receipt of updated cost quotations/advice).

10. Risk assessment and mitigation

9.1 Consideration has been given to the major risks that could arise.

9.2 As this is at OBC stage the assessment is outline in nature and high level, but seeks to follow the principles of an established risk management strategy used in Local Government relating to recognised categories of risk.

9.3 The assessment relates purely to the provision of a DevCo as a collaborative vehicle engaged in provision of housing and associated assets.

9.4 It does not consider the risks associated with individual projects that a Council may decide to engage in, as this would be specific to each Council, the nature of the type of scheme and how that Council chose to fund the respective project or projects. Such considerations would be a matter for each individual Council if needed as part of their own internal considerations at FBC (when the pipeline and project details may be more progressed).

9.5 The categories of risk and assessment considers the likelihood of risk considered on a range from Very High, to Almost impossible (Very High, High, Significant, Low, Very Low, Almost impossible).

The potential impact of the consequence of a risk occurring has also been considered. This ranges from Negligible to Catastrophic.

9.6 The risk assessment is provided in a table within the appendices, please see appendix 9. For most risks the outcome is considered to be low or very low, but it is up to the participating individual Councils to determine the risk relative to their own considerations.

9.7 It should however, be noted that to have a development vehicle the principle of engaging in development is being raised and that the development of projects commercially would bring the opportunity of the benefits and rewards of development as well as any associated risks.

9.8 As can be seen from the assessment appended, the greatest risks are:

- Lack of commitment to participate by Councils – leading to insufficient pipeline: Mitigated/overcome by the parties agreeing to enter into a partnering arrangement for a minimum period;

- Recession leading to collapse in the housing market, resulting in all Councils agreeing to refrain from development/defer: Mitigated by completion of existing works and run down of staff and costs.

10. Summary and Recommendation

11.1 This OBC helps evidence that the provision of a development company on a collaborative basis would be beneficial to the Councils who participated in the Working Group..

11.2 The assessment sets out the most effective basis to take forward the participating Councils ambitions..

11.3 The detail within this document also highlights the benefits and disadvantages of options that the Councils have considered.

11.4 The provision of a vehicle as proposed would enable the Councils joint objectives to be achieved.

Councils to add any further statements, recommendation, and basis for recommendation.

11. Appendices

Appendix 1) Legal advice received from Anthony Collins Solicitors.
Report: Collaborative Development Vehicle. *Provided as an attachment.*

Appendix 2) Table: Project Scenarios. *Provided as an attachment.*

Appendix 3) DevCo initial operating period cost budget assumptions – to be updated for FBC against pipeline and cost confirmations. *Provided as attachment.*

Appendix 4) Potential development pipeline. *Provided as attachment.*

Appendix 5) Report – Market information on development specific delivery vehicles: The rise of Local Housing Companies. Published by the Smith Institute. *Provided as attachment.*

Appendix 6) Report – Local Authority Direct Provision of Housing – Report of Professor Janice Morphet and Dr Ben Clifford (Bartlett School of Planning) for Royal Town Planning Institute and National Planning Forum – December 2017. *Provided as attachment.*

Appendix 7) Suggested KPI 's – *Given below.*

Appendix 8) Overview of proposed basis for the Funding of individual projects/schemes - *Given below.*

Appendix 9) Risk Matrix – *Given below.*

Appendix 10) Extract from the UK Price Index - Average Prices August 2000 to 2018 for East Midlands – Provided to illustrate the level of growth in house prices in the East Midlands over recent years, and average values being achieved. *Provided as an attachment.*

Appendix 11) Glossary – *Given below.*

Appendices noted as ‘Given below’

Appendix 7) - Suggested KPI‘s

Development KPIs

Gross Development Value of scheme
Average value of unit
Value per square foot
Land cost as % of GDV
Land cost per unit
Build and fees cost per m2
Build and fees cost per f2
Average build costs per unit
Capitalised Interests as % of GDV
Cost to value %

Operational KPIs

Business Plan Years
Type of NPV modelled
% of 1st tranche sold
Rental Income years 1
Gross yield to cost year 1
Net yield to cost year 1
Year of 1st net surplus
Loan debt at completion
Peak debt
Year of peak debt
Year loan repaid
Cash/loan at end of business plan
Loan as % of OMV at end of BP
Internal rate of return
Discount rate
Interest rate charged during development
Interest rate charged operation

Vehicle KPIs

Overheads as a % of turnover
Profit Margin within scheme
% repayment of working capital
Accumulative cost of overhead per quarter and yearly
Accumulative profit by quarter and yearly
Accumulative % of working capital repaid against target

Appendix 8) - Over view of proposed basis for the Funding of individual projects/schemes

This appendix considers the funding needs and form of finance required in order to fund individual projects for construction and long term retention of stock.

Funding needed in order to develop projects

Early Stage Funding - Working Capital

For the early stages of the development of a project (meaning progression of a project inclusive of all costs to the point of entering a construction agreement) the funding is assumed to be in the form of working capital or loans. For CDV this will be on a commercial basis.

As the DevCo will be providing the development service for the scheme to the benefitting Council, that respective Council will provide the funds for the costs of the development.

Depending on the nature of the project, the funding may be from the Council sponsoring the project to the DevCo, or through their Housing Company. The contractual and funding relationships are discussed further below and are subject to legal advice.

Once the point of entering construction is reached supported by construction contracts, formal project loan agreements will apply and construction finance facilities specific to a project entered into. The facilities being supported by security as is standard for development finance and construction contracts.

For projects developed through the TDV (Teckal company) the Council will own the asset and will provide funding inclusive of any subsidies directly to the scheme.

The costs that will be funded include all project development costs that are required for a specific project, such as technical, legal, architect, and planning. With CDV where commercial terms are applied all costs incurred in the development of a project will form part of the construction finance facility. Thus, effectively enabling the working capital/loan facility for the formulation of the project to be repaid.

As described in the main text, the qualifying costs that relate to the project are assumed to be capitalised (subject to independent accounting and tax advice at FBC stage).

The interest rate to be charged will depend on the type of facility that the Councils decide to put into place, but based on a working capital arrangement to support the early stages of the development of a scheme, the interest rate is currently assumed to be in the region of 6% over base.

Finance for construction and long term project funding.

1) Funding for projects through TDV

As the Teckal company is inward looking its funding arrangements do not need to be based on market terms provided that funding is ringfenced to delivery back to the Councils.

As the funding does not need to be on market terms it will be for the respective Council to decide whether the funding of these projects (which are likely to be mainly of a social nature) is to be provided at cost, or inclusive of a margin. This can be considered further for the FBC.

Each scheme needs to be viable and therefore may need a margin to enable repayment of any underlying long-term loans.

It is a matter for the Council that has engaged the Teckal to develop the assets to see how that Council is able to raise funds and on what basis it supplies them.

Funding for a project may work as follows:

Example: A scheme is for development of 20 properties which are to comprise of say 10 Affordable Home products such as shared equity, and some social rents, as well as 10 houses for sale to the market. The Council would need to fund the development in full, with the funding released in tranches as the houses are constructed.

As development of the houses may be in stages this would enable the early completions to be sold to generate and release funds for recycling into the scheme. Profit achieved from the sales, can also be used as a subsidy. On completion of the full site and sale of shared equity homes further funding repayments would be received against the Council's debt.

Homes to be used for rental purposes, depending on their nature, will either be financed by and held in the HRA, or purchased by the Housing Company.

Sources of subsidy:

*Grants
*Section 106 receipts/commuted sums/affordable housing contributions
*Lent from the HRA (Local Treasury decision)
*Surpluses that may be generated within the scheme from sales/staircasing

2) <u>Funding for Projects through CDV</u>

Funding for CDV needs to be on commercial rates and terms in order to be State Aid compliant.

Development Finance during Construction

As with the funding of projects through the Teckal company the Councils will effectively be funding 100% of the costs of the development but will do so on the basis of facilities that are the same as those which a commercial lender would provide for the same transaction.

Thus, margin and fees are applied which generate a return to the lending Council. It also means that different loan products in line with the market are applied which generate different returns and are documented separately.

The facilities, rates and terms assumed are subject to comparison with the market. It is assumed that the funding will comprise of 3 elements, these are equity/initial investment, sub debt and senior debt. All of the funding required for a project will be supported by the respective Council, and provided in line with commercial lending terms.

For explanatory purposes, a table which sets out these facilities including an indicative split of the funding is provided below.

As with all lending arrangements the Councils will want to ensure that the loan facilities will be fully repaid, and that if they have borrowed funds to finance the arrangement, that the underlying loan is fully serviced by the income received. A detailed financial assessment prior to entering the loans known as the Full Viability Assessment will be provided by the DevCo and reviewed and approved or otherwise by the lending Council as part of the process, whether the borrower is the Devco, or the Housing Company.

An assessment would also be provided for funding requirements for projects through the Teckal company.

During construction funding is lent on a basis of a Loan to Cost ratio ‘LTC.’

Both senior and sub debt are contracted to be repaid. The sub debt is lent in the form of loan notes, and the senior as a loan in the form of a loan agreement.

Equity investment is either from equity interest/value already accumulated in a project or from shareholder funds. As this is for development finance of new projects typically the expectation will be for the sponsors to contribute the equity funding.

Example: A scheme costs £3m to develop a site (in this example there is no sub debt).

Based on the indicative terms in the table below the funding during the development period would comprise of:

50% equity	£1.5m
50% senior debt	£1.5m

The equity is the investors investment which will be realised over time following completion and the determination of the use of the asset. If it is for long term use it may stay or a portion of it may be retained within the value of the asset. Repayment is met in time following say a sale, or by way of dividends on performance.

Whilst the facilities are intended to generate a return to the Council, during the construction period the senior debt cannot be repaid, nor is interest serviced as there is no operational asset to generate income. Interest is therefore rolled up. The senior debt commitment is then repaid inclusive of the rolled-up interest after completion of the asset following sale, or if the asset is to be used for long term rent, notionally on refinancing to operational terms.

Refinancing onto Operational funding terms effectively resets the debt arrangements and provides a profile for regular repayments of the senior and sub debt over the contract period.

As the funding attracts fees these may be apportioned to the Council on commencement of the loans.

The terms of the funding would be modelled to ensure servicing of any funding commitments that the Council may have entered into in order to raise the funds, or to meet internal return requirements.

Where the assets are for long term housing social rent use, funding may be on a fixed loan debt profile against anticipated rents.

Operational Funding

Operational funding is lent on a basis of Loan to Asset Value (LTV) which is the market value of the asset.

If for example the assets which cost £3m to build are considered to be worth £4m in the market once built, then the funding requirement for the operational period will from the example table be:

30% equity £1.2m

10% sub debt £400k

60% senior debt £2.4m

Senior debt and sub debt loans will be fully amortising.

Note the cost of rolled up interest would also be factored into the refinance facilities as well as the funding fees that may apply.

Typically where a Council has borrowed funds in order to provide the facilities the Council would be expected to match and hedge commitments. It will however, be up to the lending Council as to the basis (fixed or variable) on which they wish to lend the funds, and the type of facilities available in the market at that time.

The table below provides for indicative purposes an example of the mix of commercial funding facilities and terms that might be applied (subject to the market at the time of lending). It outlines a typical proportion of debt for each category of funding, which determines the interest rate that would be payable to the Council as the funder.

Summary Table of Funding Terms: For example purposes

Funding Type					The rate shown is the margin, not the total rate.		Cost of Money assumed, including additional funding costs		All in rate senior debt
	Equity%		Sub debt %		Senior debt %		MLA costs	0.04	
	Rate	Ratio	Rate	Ratio	Rate	Ratio	Credit spread	0.1	
Development	*	50	N/A	0	4.00	50	(Example)Libor [25 yr fixed swap rate]	1.86	6
Operations	*	30	10	10	3.25	60	Total	2	5.25
Working capital facility					(Example) 6% assumed over base, current rate would be 6.75% variable.				

Note: Rates and product mix to be applied will need to be referenced to the market ideally from a Transfer Pricing or State Aid report.

Roll up of senior debt interest and roll up of sub debt interest during the investment phase is disregarded for the purpose of the table.

The interest rate to be charged is the margin plus the cost of funds (Libor, in this example).

For the final rates to be used consideration will be given to the Councils internal cost of funds, or cost of funds to the Council to enable a return to the Council.

The above assumes funding on a fixed rate basis. Consideration also needs to be made of variable rates available in the market at the time of funding a project.

Typical Fees

Arrangement fee – Sub debt	1 - 2% Payable on draw down. Higher more likely on development loan.
Arrangement Fee – Senior debt	1- 2% Payable on draw down
Non Utilisation fee (Commitment fee)	50% of loan margin
Exit fee at PC/on refinance (from the devt. loan)	1% of outstanding balance.
Agency fee at:	£10,000 plus per annum on the senior debt – but can vary.

Fees and margins enable a revenue return to the lending Council.

Appendix 9) - Risk Matrix

Table: Risk Matrix

Risk category	Description/ Identification of specific risk	Likelihood	Impact	Mitigation	Control	Comment
Political	**Local and National Political Issues / Interaction and decision making**					
	Change at a National level politically in the agenda for provision of housing and regeneration.	Very Low. Especially in the short and medium term. Currently both major parties support provision of housing, regeneration, and infrastructure.	Critical	Development is on a planned basis with a known horizon for the projected pipeline.	Commitments are managed, and governance arrangements are provided to enable control	
	General change at a local level politically away from housing priorities	Very Low. Especially in the short and medium term given national focus and local pressures for housing	Critical	Development is on a planned basis with a known horizon for the projected pipeline	Commitments are managed, and governance arrangements are provided to enable control	
	Change by a single Council mid term to invest resources elsewhere away from the initiative.	Low. Particularly given the national focus and local pressures for housing. However, demands on a Councils planned expenditure and priorities for resources arising from political change could arise.	Marginal	Councils are to be equal within DevCo with share of base costs, which would be contracted. Main risk would be to the differentiating Councils own individual schemes that were not contracted.	No control over individual Councils but DevCo works to a business plan from the Councils jointly and most likely any decision by a single Council would manifest in a managed gradual process due to contracted pipeline.	For example might arise following a change in leader/political control or from new manifesto commit-ment.
	Impact of Brexit If impact on the economy is adverse it may generate a reduction in demand for housing and development.	Currently not known, but may have impact on the economy.	Negligible / Marginal	Pipeline of development can be managed to meet demand. Main operating cost of Dev Co is staff and can be managed against pipeline, reducing cost and commitments.	Business Plan	
Economic	**Local and National economic issues including interest rates/ suppliers/ inflation**					
	Supplier issues	Low	Negligible / Marginal	A purpose of DevCo is to enable a dedicated entity that engages with suppliers and as a dedicated entity has a panel or range of suppliers. Mitigation will be the industry relationships that arise and ability for CDV to employ new	Experienced dedicated resource. Supplier contracts and ability to engage in market.	

				suppliers. TDV would benefit from CDV relationships but would need to procure if a supplier was unable to deliver. Mitigated by use of framework.		
	Inflation	Low	Negligible	Increases in wages and construction costs may be matched or exceeded by property and rent inflation.	A financial plan will need to be developed at FBC and may need to make inflation assumptions. It s possible that inflation will change and scenarios should be modelled to test outcomes.	
	Interest Rates	Low Interest rates are stated to be increased gradually in the short and medium term. There may be some fluctuation in interest rates and availability of capital following Brexit depending on the nature of the deal.	Negligible	Impact of interest rates on DevCo and its funding facilities can be modelled to test viability. Funding of schemes particularly for assets held for the long term can be on fixed rate products tied into the current low interest rate environment.	Interest rates are set by Bank of England but influenced by outside economic factors. Short and medium term environment looks controlled. If needed the Councils can control impact on projects by use of fixed rate funding products and management of working capital facilities to DevCo.	Returns to Councils from lending on commercial terms are likely to be at a margin which moves with the market
	Property Inflation	Low Risk is fall in property values making projects unviable.	Marginal	There has been continued growth in house values during last 10 years. At some point growth will slow, but long term in the UK there has been strong annual average property value increases. Should property prices fall whilst DevCo is developing a project the asset on completion can be held for long term by the Housing Co, rather than for sale. DevCo would need to be remunerated for its service.	Viability assessment is undertaken on all projects unviable projects will not be progressed, and are also unlikely to meet requirements for funding, funding being controlled by the respective Council.	
	Recession	Low	Critical	UK economic growth is upward. The initial period of the pipeline is likely to be 4 to 5 years. It is for the Councils to plan the business accordingly.	Mitigated by Business Plan, enabling management of business. Depending on the purpose of a scheme, might be positive.	The UK is subject to national and worldwide recession, which are typically

				If provision of housing is key, a slight downward curve giving rise to reduced costs might be positive to Council delivery objectives.		cyclical currently markets are inclined upwards recovering from the 2008 recession
Social	**Social and demographic issues in local population and workforce**					
	Demographic change affects type of houses needed	Very Low	Negligible	Able to use land to meet demand and apply for planning permission that meets needs	Development is managed and aligned to the Business plan set by the Councils.	
	Lack of skilled work force	Low, availability of suitable staff may change.	Marginal	DevCo is a dedicated company with small workforce. If required can change business plan to meet /attract required resource.	Ultimately Councils are able to influence the company and staffing.	
	Demographic changes lead to fall in demand for housing within the region.	Almost impossible, especially in the short term	Negligible	Pipeline of development can be managed to meet demand. Main operating cost of Dev Co is staff and can be managed against pipeline, reducing cost and commitments.	Business Plan.	
Tech-nological	**Reliability and ability of technology to meet the needs**					
	Technology Failure	Very Low	Negligible	DevCo is to be based at a Council office and have access to technology and support services. It is not high technology dependent.	Able to invest in new technology if needed. The development processes are also typically conformed and not dependent on new technology.	
Environ-mental	**Environmental Consequences**					
	Development has impact on the environment.	Very Low.	Negligible	DevCo will act as a developer and be required to follow guidelines and legislation relevant to impact on the environment.	All developments will need to have met planning, protecting DevCo from entering any development that could have an adverse impact.	
Professio-nal Manage-rial	**Managerial abilities and skills**					
	Failure of appointed senior staff and lack of required skills	Low. Recruitment error leading to staff failings.	Negligible /Marginal	DevCo is a dedicated company with small workforce. If required it can act quickly and recruit replacement staff.	Ultimately Councils are able to influence the company and staffing. Regular performance and reporting.	

				As work is subcontracted core projects will carry contractor warranties and have been advised by professional parties, mitigating impact of any staff inadequacy/inexperience. Training.		
Financial	**Financial Planning and Control**					
	No or ineffective financial planning and control	Almost Impossible	Marginal	A key post will be a dedicated FD. The FD will be a qualified individual responsible for financial reporting and financial planning of projects. As an early resource engagement the FD is likely to be appointed by stakeholder representatives from the Councils.	Councils through the governance arrangements have direct insight into performance, and also determine the Business Plan. Councils have control and also determine funding to DevCo and projects.	Company is subject to audit
Financial	**Expenditure**					
	Operational Costs exceeded	Low	Marginal	Working Capital expenditure managed against budgeted operational and project costs.	Operational costs of DevCo are a matter for the Councils who will set the budget and the Business plan. Reporting and management controls	
	Repayment of working capital is delayed due to project delays	Low	Negligible	Working capital /loan commitment will attract interest and be repaid on financing to project funding terms	Management of the working capital/loan facility	
	Project fails during early stage and working capital is expended	Low	Marginal	It is possible that a project might fail for reasons outside of the control of the company/respective Council. Viability assessment in place to mitigate this risk. An example risk might be refusal of planning permission.	Certain base costs accrued may be shared (be a company cost), working capital accrued is suggested to be to the account of the interested Council (subject to any other agreement to address this risk between the Councils). Controls and management of project expenditure and development against programme are tools to protect against failure.	

Legal	**Risk of breaching legislation and meeting regulatory requirements**					
	Risk of breaching legislation and not meeting regulatory requirements	Very Low. Supported by professional legal advice. DevCo to be developed and delivered following appropriate due diligence and respective Council approvals Once established risk management and reporting regimes to be in place.	Marginal	Formation of DevCo has been subject to legal advice. Company documents and structure is to be implemented with legal support. Funding arrange-ments are to follow guidance and will use documents provided by legal advisors. Projects by their nature will be subject to legal represent-ation and support.	Signatories with delegated authorisation only will ensure control	
	State Aid	Low Funding for CDV and TDV to be State Aid compliant and will be implemented with legal advice.	Critical	Councils will lend to CDV and projects through CDV on a commercial basis including utilisation of market rates, and terms. Funding to TDV to be ringfenced to Council provision.	Funding terms and facilities to Dev Co and projects will be confirmed as part of the viability assess-ment and loan provision arrangements	
Physical	**Fire, security, accident prevention to workforce and population**					
	Construction arrangements do not meet regulations	Almost impossible	Marginal	This is a risk passed onto the appointed construction contractors, works are not undertaken by DevCo directly.		
	Office premises	Almost impossible	Negligible	DevCo is to be based in a Council office during the initial trading period.		
Partner-ship/ Contrac-tual	**Associated with failure of contractors and partnership arrangements to deliver services and products to an agreed cost and specification**					
	Failure of contractors	Low	Negligible / Marginal	Mitigated by ability to work with the market without procurement restrictions, and to have access to a range of suppliers		
	Delivery to cost budget	Very Low	Marginal	Development contracts are recommended to be on a fixed price contract basis.	Projects to be managed by DevCo against budget, funding released by Council against milestones. Prudent to contract on fixed cost basis	

					with financial plan inclusive of contingency	
Compe-titive	**Risks that may affect competitiveness and/or ability to deliver best value**					
	Competition	Very Low	Marginal	DevCo is a company dedicated to delivering for the Councils. Therefore competition would only arise from a decision by a Council to procure a development through a different route such as a JV (for example). N.B To do this value which through Devco would remain with the public sector would be lost to the JV developer, thus DevCo should always be better VfM on a project basis, especially when long term use of assets developed is also considered.	Councils both benefit and have control. DevCo provides a means for a range of public sector assets to be developed by the public sector for the public sector and enable value to be achieved.	
Customer /Citizen	**Risk of failure to meet current and changing citizen needs**					
	See Social above.					

Appendix 11) - Glossary

- DA means Development Agreement
- GF means General Fund
- HE means Homes England
- HRA means Housing Revenue Account
- JV means Joint Venture
- LLP means Limited Liability Partnership
- MTFS means Medium Term Financial Strategy
- NHB means National House Builder
- PRS means Private Rented Sector
- RP means registered provider
- RTB means Right To Buy

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