

Executive Board
20 September 2022

Subject:	Loan to Nottingham City Homes to Fund the Development of Midland House
Corporate Director(s)/Director(s):	Sajeeda Rose, Corporate Director for Growth and City Development
Portfolio Holder(s):	Councillor Toby Neal, Portfolio Holder for Housing and Human Resources
Report author and contact details:	Mark Lowe, Head of Housing and Regeneration mark.lowe@nottinghamcity.gov.uk
Other colleagues who have provided input:	Steve Sprason, Interim Head of Property
Subject to call-in: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Key Decision: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Criteria for Key Decision:	
(a) <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision	
and/or	
(b) Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type of expenditure: <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital Date considered by Capital Board: not applicable (see Recommendation 2)	
Total value of the decision: £3,976,000	
Wards affected: Meadows	
Date of consultation with Portfolio Holder(s): 24 June 2022	
Relevant Council Plan Key Outcome:	
Clean and Connected Communities	<input type="checkbox"/>
Keeping Nottingham Working	<input type="checkbox"/>
Carbon Neutral by 2028	<input type="checkbox"/>
Safer Nottingham	<input type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Healthy and Inclusive	<input type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input type="checkbox"/>
Better Housing	<input checked="" type="checkbox"/>
Financial Stability	<input type="checkbox"/>
Serving People Well	<input type="checkbox"/>

Summary of issues (including benefits to citizens/service users):

Nottingham City Homes Limited (NCH) is the parent company for two subsidiary companies: Nottingham City Homes Enterprises Limited (NCH EL) and Nottingham City Homes Registered Provider (NCH RP). On 17 September 2019, the Executive Board approved a loan to NCH EL to fund the development of market rent apartments on the former Meadows Police Station site. This development has been completed and is known as Midland House.

The Council has now approached NCH to request that the development is used for the provision of temporary accommodation for homeless families, rather than for market rent apartments. The land and building is owned by NCH, rather than NCH EL, and therefore the decision is to make a replacement loan to NCH rather than to NCH EL, to ensure that the loan is given to the company that owns the asset.

Does this report contain any information that is exempt from publication?

No

Recommendation(s):

1. To approve a loan of £3,976,000 to Nottingham City Homes Limited (NCH), to cover the development costs for the construction of Midland House.
2. To note that this loan replaces the loan agreed previously by the Executive Board on 17 September 2019 to be made to Nottingham City Homes Enterprise Limited for the same purpose, and that the loan arrangements reflects the legal ownership of the development. As the original loan is included within the Capital Programme already, this decision does not involve increasing the total level of agreed borrowing.
3. To note that, in accordance with the Section 114 Notice in relation to any new spending decisions between the Council and NCH, these proposals have been agreed by the Council's Section 151 Officer. This decision will enable the regularisation of the funding of Midland House, which is a non-Housing Revenue Account asset built and owned by NCH.
4. To delegate authority to the Section 151 Officer, in consultation with the Director for Legal and Governance, to approve the terms of the loan agreement.

1. Reasons for recommendations

- 1.1 The Midland House apartment block is now complete. When the loan decision was taken on 17 September 2019, it was envisaged that the land on which Midland House (previously referred to as the development of the former Meadows Police Station site) would be sold from NCH to NCH EL during the construction process, and that the completed apartments would become part of NCH EL's market rent portfolio. However, this transfer of land did not take place and the end purpose of

this property (now complete) has changed. The building is, therefore, legally owned by NCH.

- 1.2 The Council has a duty to provide temporary accommodation to families in households in priority need. To provide an adequate supply of temporary accommodation, the Council currently utilises bed and breakfast and nightly paid temporary accommodation, which is expensive. NCH intends to lease the Midland House building to NCH RP which, as a registered provider of social housing, can claim enhanced housing benefit to cover the additional costs of managing temporary accommodation. Utilising Midland House as temporary accommodation in this way will save the Council over £500,000 per year.
- 1.3 The loan is already accounted for within the Capital Programme, so this will not increase the amount of borrowing within the Capital Programme – rather the recipient has now changed. The intention is that the loan will meet the costs incurred in the development of this building.

2. Background

- 2.1 On 17 September 2019, the Council agreed a loan to NCH EL to fund the development of apartments on the former Meadows Police Station site. NCH had previously purchased the land with the Council's support for the purpose of future development to expand the portfolio of properties within its wider NCH group of companies. Although the development site was owned by NCH, the intention was to transfer the land to NCH EL during the build process and that NCH EL would then draw down the loan. The property was intended to be used as part of NCH EL's market rent portfolio. The loan was never provided to NCH EL.
- 2.2 NCH never transferred the land to NCH EL because there were considerable complexities around the land ownership, some of which related to the construction of the tram lines that run directly adjacent to this site. This had left strips of unregistered land that needed to be resolved before a clean transfer of the entire site to NCH EL could take place.
- 2.3 Since the 2019 decision, the need for additional temporary accommodation has become more acute. NCH agreed that, at least in the short term, it would utilise the Midland House building as temporary accommodation for families to whom the Council has a duty. This would involve leasing the property to NCH RP to manage because, as a registered provider, NCH RP is capable of claiming enhanced housing benefit to meet the costs of this accommodation. In this way, this would save the Council over £500,000 per year in its temporary accommodation budget.
- 2.4 NCH RP has completed a business case for the lease of Midland House from NCH. This business case has been approved by the NCH RP Board, as the projected incomes adequately meet the costs for the NCH RP of managing this accommodation. The business case inputs are based on realistic assumptions derived from operating similar temporary accommodation elsewhere in Nottingham (such as Fairham House in Clifton).

2.5 Given that both the ownership and use of Midland House is now different from that reported in 2019, it would not be appropriate for this property to be transferred to NCH EL, which is primarily a provider of market rent housing. As the land value has increased since the original purchase, this would also incur additional costs for NCH EL in any case, which would take the payment required beyond the agreed figure anticipated within the original business case for the market rent properties.

2.6 NCH is an Arm's Length Management Company subsidiary that is wholly owned by the Council. The Council has given notice to NCH that it intends to terminate the partnership agreement and bring NCH back in house. This will involve the 'lift and shift' of the property management function from NCH back into the Council's core structure. However, NCH currently owns a significant number of properties and it will not be possible to divest it of these assets prior to the management function returning to the Council. For this reason, NCH will likely continue to exist as a legal entity and property-owning company after the property management function has ceased. Midland House is already legally owned by NCH and so will be one of the properties it continues to own.

3. Other options considered in making recommendations

3.1 To transfer the land and building to NCH EL and draw down the loan in line with the 2019 decision: this option is rejected because the use of the building has now changed (it will no longer be utilised for market rent housing, at least in the short term) and the increase in the land value since it was originally purchased would mean that a current open market value transfer of the building would be higher than NCH EL originally anticipated within the business case for this development.

3.2 To sell the property and use the receipt to repay the development costs: this option is rejected because there is a requirement for the Council to provide additional temporary accommodation urgently.

4. Consideration of Risk

4.1 There is a risk that the need for temporary accommodation will decrease. However, this is unlikely and, if this occurs, the building could be sold or utilised for an alternative purpose (such as market rent or affordable rent). The NCH Group has other temporary accommodation on shorter-term leases that it could reduce more quickly in the unlikely event of a decrease in demand.

4.2 There is a risk that in the future, following the transfer of NCH's current operational roles into the Council, that the Council will take the decision to divest NCH of its assets and close the company. Despite this future option, NCH owns significant assets, all of which would need to be dealt with as part of this decision, so this is simply one of many that will need to be considered in future decisions. Midland House is already owned by NCH, so this decision will not alter this.

5. Finance colleague comments

5.1 As detailed within the recommendations and the body of the report, reallocating this loan within the Capital Programme has no impact on the bottom line of the General

Fund Capital Programme. This project is funded by prudential borrowing and, as such, is already incorporated with the Council's debt forecasts within the Voluntary Debt Reduction Policy. Prior to issuing the state aid compliant loan to NCH, the Council is required to carry out due diligence, which will include, but is not limited to:

- analysing the updated financial model from NCH, which incorporates the change of use. Depending on the outcome on the model confirmation, evidence may be required from NCH in regards to how any potential early year deficits will be funded;
- seeking a copy of the NCH approval to not transfer assets to NCH EL and the change of intended use from commercial to providing temporary accommodation to families; and
- reviewing the evidence of cost / market value of Midland House, which the Council's loan will be secured against.

5.2 The loan in relation to Midland House will be for the provision of homelessness and the loan terms will stipulate this usage. Should this use be required to change the loan term will need to be amended accordingly. As with any capital loan, the Midland House loan could go into negative equity if the asset value falls below the secured loan and, as such, presents a potential risk to the Council. As set out in the body of the report, the Council is forecasting that this amended use for Midland House to homelessness will save the Council around £500,000 within its temporary accommodation budget.

Comments provided by Tom Straw, Senior Accountant – Capital Programmes, on 2 August 2022.

6. Legal colleague comments

- 6.1 The proposals in this report are to provide a loan to NCH. This decision will override the earlier decision to provide a loan to NCH EL.
- 6.2 The Council has the power to provide loans under the Localism Act 2011 and the Local Government Act 2003. When making its financial resources available, the Council has a fiduciary duty that it owes to its taxpayers. To discharge this duty, the Council must ensure that its decision to provide a loan to its subsidiary NCH is a rational decision. To enable it to do this, the Council must undertake due diligence of NCH's ability to meet the terms of the loan.
- 6.3 The provision of the loan will fund accommodation that has been developed and that will be used as temporary accommodation for families referred by the Council's Housing Aid Service, which is a public service of the Council, in the short term at least. Subject to the due diligence exercise providing satisfactory evidence of NCH's ability to repay the loan, the Council must ensure the terms of the loan are not unlawful subsidy (old state aid). The interest rate and terms of the loan will be set following the due diligence. Provision of the loan at market rates alongside the fact that the use of the funding will be for the discharge of a public function, will ensure it does not constitute an unlawful subsidy.

- 6.4 The Council's Section 151 Officer has confirmed approval with the proposals in this report. Appropriate legal documentation should be put in place to capture the arrangements.

Comments provided by Dionne Screamon, Senior Solicitor – Contracts and Commercial, on 3 August 2022.

7. Procurement colleague comments

- 7.1 As the report is solely in relation to the loan agreement, there are no procurement implications.

Comments provided by Sue Oliver, Procurement Category Manager, on 3 August 2022.

8. Social value considerations

- 8.1 The provision of additional temporary accommodation will assist the Council in fulfilling its statutory duty to households in need.

9. Equality Impact Assessment (EIA)

- 9.1 An EIA is not required because this decision is concerned with the financing of a development that is already completed, and does not represent proposals for a new or changing policy, service or function. All policy issues related to the placement of people in temporary accommodation, or the management of temporary accommodation, are subject to separate policies and practices that have their own EIAs.

10. Data Protection Impact Assessment (DPIA)

- 10.1 A DPIA is not required because this decision is concerned with the financing of the development and does not involve sharing of information. All data protection issues related to the placement of people in temporary accommodation, or the management of temporary accommodation, are subject to separate policies and practices that have their own data sharing assessments.

11. Carbon Impact Assessment (CIA)

- 11.1 A CIA is not required because this property has been constructed already and this decision is simply concerned with how it is financed.

12. List of background papers relied upon in writing this report

- 12.1 None.

13. Published documents referred to in this report

- 13.1 Executive Board meeting on 17 September 2019: Loan to Nottingham City Homes Enterprise Limited for the Redevelopment of the Former Meadows Police Station

<https://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=177&MId=7974&Ver=4>