

# Executive

## Participation in a Community Interest Company to deliver the Green Deal

28 May 2012

### Report of Head of Regeneration and Housing

#### PURPOSE OF REPORT

To seek approval for the Council to become a shareholder member of a Community Interest Company established to act as a Green Deal Provider.

This report is public

#### Recommendations

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The Executive is recommended:

- (1) To authorise the Council's participation as a founding, shareholder member of the proposed Community Interest Company (CIC), subject to confirmation by the Head of Finance and Procurement and the Head of Law and Governance that the terms of membership and participation are acceptable and place the Council at no financial, legal or reputational risk.

#### Executive Summary

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##### Introduction

- 1.1 The Green Deal is the government's flagship scheme for improving energy-efficiency and reducing carbon emissions. The principle legislation is in place and Green Deal will commence in October 2012. It will replace current national energy-efficiency schemes (such as Warm Front) and will also bring an end to the external funding on which our local discount-insulation schemes primarily depend. The Green Deal will effectively be the only route through which Cherwell residents can get financial assistance to improve the energy efficiency of their homes.
- 1.2 Green Deal is essentially a mechanism which will allow householders to get a range of energy-efficiency measures installed without having to pay for them up-front. Green Deal will operate on a commercial basis and a number of organisations are expected to set up to deliver it as Green Deal Providers.
- 1.3 The Council has an opportunity to join a number of other authorities in setting up a Community Interest Company (CIC) with the express purpose of becoming a Green Deal Provider. This proposal is being led by the United

Sustainable Energy Agency (USEA)<sup>1</sup> and has been developed with the active participation of a number of local authorities including Cherwell<sup>2</sup>, each of which will shortly have to decide on the extent of their further participation.

- 1.4 Community Interest Companies (CIC's) are limited liability companies designed for social enterprises and established by the *Companies (Audit, Investigations and Community Enterprise) Act 2004*. They are now quite well established and understood and present no fundamental issues or difficulties. The greater-part of any profits they generate are restricted and may only be used for community purposes.
- 1.5 There are two options available; either to become a shareholder member at a maximum expected cost of £35k<sup>3</sup> or to become an annual member at a proposed annual cost of £5k.
- 1.6 There are some significant benefits to participation:
  - 1.6.1 It would allow the Council to ensure that residents are given a reliable, effective and local Green Deal service, rather than have to rely upon external providers over whom it has no control or influence. (*This would apply to both forms of membership.*)
  - 1.6.2 It would give the Council shared decision making (as one of the shareholders) over the best means of promoting and encouraging uptake of the Green Deal so as to assist the Council in meeting its strategic targets. (*Shareholder members will exercise primary control.*)
  - 1.6.3 It would allow the Council shared decision making over the procurement of contractors who would work with the CIC to undertake Green Deal works for our residents<sup>4</sup>, and therefore give influence over both expected quality of work and practices. We would also be in a position to exercise influence over the participation and recruitment of local contractors (particularly Small and Medium-scale Enterprises (SME's)) and, potentially, therefore over the employment and training of local people. (*Shareholder members will exercise primary control.*)
  - 1.6.4 It would allow the Council to receive dividends (capped at 20% of its investment per annum by CIC rules). The draft business plan (which has been reviewed and judged realistic by the Head of Finance & Procurement) anticipates payment of this full amount and would therefore repay the Council's investment after 5 years. (*Annual members will not receive a dividend.*)
  - 1.6.5 It would allow the Council to exercise shared control over the uses to which the profits generated by the CIC might be put and to benefit residents as a result. (If the Council were not to be involved, any commercial Green Deal Provider operating in our district would be free to take and use profits as they chose. They are most unlikely to be used to the benefit of Cherwell residents.) (*Shareholder members will exercise sole control.*)

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<sup>1</sup> The Council has had a successful long term relationship with USEA which is a not-for-profit company and which currently provides the Cocoon scheme and manages the Council's discount schemes.

<sup>2</sup> Also including: West Oxon & Cotswold, South Oxon & Vale, Aylesbury, Milton Keynes, Southampton Watford and OCC, amongst others.

<sup>3</sup> Start-up capital of £350k is required from 10 founder members. Any additional number of founder members would reduce this figure pro-rata. USEA has indicated its preparedness to buy shares to the value of £100k if required, so a minimum of 7 other members is required.

<sup>4</sup> The intention is to approach relevant trade bodies to invite their members to participate. Those expressing interest will have to meet national accreditation requirements specified for Green Deal and also pass a series of basic checks such as public liability insurance.

- 1.7 The proposed CIC will operate as a Green Deal Provider and deliver a comprehensive Green Deal Provider service, bringing together customers, assessors, installers and the necessary finance so that householders can take best advantage of the Green Deal.

### **Proposals**

- 1.8 That the Council should participate as a shareholder member of the intended CIC which will operate as a Green Deal Provider.

### **Conclusion**

- 1.9 Membership of a CIC established with the express intention of delivering the Green Deal (as a Green Deal Provider) will give the Council the best opportunity of ensuring that residents are provided with an effective and reliable Green Deal service. It will also ensure that there is a local Green Deal service that the Council can actively promote and recommend. This will not only benefit residents directly, but will assist the Council in meeting its strategic objective in relation to housing standards, fuel poverty and the reduction of carbon-emissions.
- 1.10 Membership of the CIC will also allow the Council to influence selection of its Green Deal contractors (through appropriate procurement processes), which will ensure better opportunities for local businesses, employment and training than is likely to be the case if provision of Green Deal is left to other Green Deal Providers with a commercial rather than a specific local-interest focus.
- 1.11 In financial terms, membership of the proposed CIC should provide the Council with a dividend income (whereas annual membership would require annual expenditure) and, more significantly, will ensure that profits generated by the Green Deal Provider are put to community uses (such as assisting those in fuel poverty) and are not lost to the district (as they inevitably would be if the Green Deal were to be delivered by other providers).
- 1.12 If the Council were to choose not to participate in the CIC, the Green Deal will be provided by organisations over whom the Council has no influence and in whom residents are likely to have less confidence. Potential benefits to residents achieved by use of Green Deal profits for community-purposes would be lost, as would opportunities to secure local employment and the involvement of local businesses.

### **Background Information**

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- 2.1 The Council's Private Sector Housing Strategy (since incorporated in the new Housing Strategy 2012-17) included a stated aim "*to ensure that homes in the district are of good quality*" and that "*no one has to live in unsatisfactory accommodation.*" This aim is reflected in two specific key actions: Increasing the number of owner-occupiers and landlords installing insulation and implementing other energy-efficiency measures, and secondly, reducing the number of households in fuel poverty.
- 2.2 The principle means the Council has employed to achieve these aims over several years has been the promotion and subsequent part-funding of

discount insulation schemes, including the Cherwell £99 and Bicester £49 schemes and our CHEEP landlords' insulation grant. All of these are on-going, but are underpinned by Carbon Emission Reduction Target (CERT) funding provided by the large energy companies. CERT funding will cease to be available later this year, so all of the schemes and initiatives based on it will also have to finish. It will be replaced by the government's Green Deal.

- 2.3 The Green Deal was created by the Energy Act 2011. Secondary legislation fixing some outstanding detail has still to be finalised but it is at an advanced stage and will not alter the fundamentals of the scheme. It is essentially a mechanism which will allow householders to get a range of energy-efficiency measures installed without having to pay for them up-front.
- 2.4 The process will start with the householder contacting the Green Deal Provider. They may do so directly (in response to advertising) or by means of a referral to the Provider by the Council or by a contractor they have approached (and the expectation is that a majority of referrals will come from this latter source). The next step will be for an accredited and qualified Green Deal Assessor to inspect the property to determine which range of possible measures could be provided by the Green Deal. The options may include insulation, replacement boiler, double-glazing, solar panels etc. The householder will decide which options they want to take advantage of and the Green Deal Provider will enter that information onto its database-platform for its various installers to price against. This will be a competitive process and the customer will decide which of the bidding installer(s) they wish to use<sup>5</sup>. The Green Deal Provider will arrange for the work to be undertaken on the client's behalf and for the contractor(s) to be paid.
- 2.5 Funding is likely to come from a number of sources including private finance (through the Green Deal Finance Company headed up by Price Waterhouse Cooper), Social Investors and Energy Companies (in the form of their Energy Company Obligation (ECO) which will help subsidise the cost of measures for low income and hard to treat dwellings). Local authorities will also have the option of providing funding on a commercial basis. (That would require separate consideration and approval. The proposed participation in the CIC, which is the subject of this report, is not dependent on it.)
- 2.6 The cost of works (including interest, which the CIC intends to that set by the Green Deal Finance Company without any mark-up<sup>6</sup>) will be recovered by means of an additional charge on the household electricity bill which the energy supplier has to pass back to the Provider. The 'golden rule' underpinning the Green Deal is that the repayment element added to the energy bill will not exceed the value of the energy savings made as a result of the improvement work. As a consequence the work effectively pays for itself.
- 2.7 Green Deal Providers will act as the customer interface and service provider; essentially bringing all of the elements together so that the customer does not have to deal independently with a Green Deal Assessor, installer(s) or funder. The principle source of income for Green Deal Providers will be referral fees from installers.
- 2.8 The government has made clear that its role is to get the legislative and funding framework in place, but that it wants Green Deal to operate in a

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<sup>5</sup> This will ensure that prices remain competitive but will also means that the Council is not specifying particular contractors and does not therefore face any of the problems over whether or not they are the cheapest. The customer retains choice and makes the decisions.

<sup>6</sup> Since the function of the Green Deal Finance Company is to make finance available at the lowest possible rate, this should mean that the interest rate used by the CIC will be the minimum possible.

commercial fashion. A number of organisations and consortia are expected to set up as Green Deal Providers and some may choose to operate on a large scale geographically. They will be doing so to make profit.

- 2.9 Green Deal will be a national scheme operating on a commercial basis. That means it will not be reliant on the Council's participation. However, Members know how important warm, well insulated homes are to good health and to fighting fuel-poverty. Improving energy-efficiency is also vital in reducing carbon emissions. Actions to address these key issues are included as priorities in the Council's Housing Strategy and its Environmental Strategy. As a result, the success of Green Deal is extremely important. Because schemes such as Cocoon and Warm Front will no longer be available, the Council needs Green Deal to succeed in delivering energy-efficient homes to help achieve its (the Council's) objectives.
- 2.10 The Council is actually well placed to encourage uptake of the Green Deal having already been actively involved in promoting and part-funding insulation through Cocoon (which has been delivering the £99 scheme and the Bicester £49 scheme). We also have the advantage of being a credible and broadly trusted organisation.
- 2.11 Although the Council will not have a prescribed legal role in delivering Green Deal, it is unlikely to be able to take an entirely passive approach (even if it wanted to) because the Government has indicated that it expects local authorities to encourage uptake of Green Deal and is prepared to use the Home Energy Conservation Act 1985 (HECA)<sup>7</sup> to ensure that happens. However, in practice, it would be difficult for the Council to simply encourage residents to use the Green Deal without associating itself with one or more Providers whom it could properly recommend; but allying itself to particular commercial Green Deal Providers is also likely to present difficulties for the Council.
- 2.12 The alternative approach is for the Council itself to become actively involved in the delivery of the Green Deal, rather than just its promotion, and there are some significant benefits to doing so which are explained in section 1.6 above.

### **Key Issues for Consideration/Reasons for Decision and Options**

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- 3.1 Although there is still some work to be done to establish the proposed CIC and the Green Deal Provider service, the principles are essentially straightforward. Participation should present no significant risk to the Council and the benefits of taking part as a shareholder member appear compelling. As a result, this report recommends that the Executive gives approval in principle for the Council's participation, subject to the Head of Finance and Procurement and the Head of Law and Governance being satisfied that the final terms are acceptable in both legal and financial terms.
- 3.2 If the Council wishes to be a shareholder in the CIC it needs to make that decision at this point so that development of the CIC can continue with the required level of certainty and so that the necessary arrangements can be finalised in preparation for launch of the service in October.

The following options have been identified. The approach in the recommendations is believed to be the best way forward.

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<sup>7</sup> HECA 1985 was previously used to require local authorities to provide annual report on energy savings and, although that specific duty ceased several years ago, the legislation remains in-place.

<b>Option One</b>	To agree the recommendation to participate as a shareholder member of the CIC.
<b>Option Two</b>	To agree the recommendation with variations
<b>Option Three</b>	To reject the recommendation.

### **Consultations**

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**None**                      None

### **Implications**

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**Financial:**                      The proposals and recommendations present no financial risk to the Council. Investment in the CIC can be covered from existing budgets.

Comments checked by Karen Curtin, Head of Finance and Procurement 01295 221634

**Legal:**                              The Council, as a local authority, is not precluded from participating in a community interest company ('CIC'), the primary purpose of which is to benefit the community the CIC has been created to serve and not the CIC's shareholders, directors or employees.

The Articles and Memorandum of the proposed CIC will need to be consistent with the Act under which the CIC will be created, and will also need to be calibrated with the aims of the scheme and the commercial objectives the participating authorities wish the CIC to pursue.

The desire expressed in this report for *local preference* will need also to be considered in the context of the wider rules on public procurement which, amongst other things, requires local authorities, or the bodies created and controlled by them, to choose their commercial partners fairly and without discrimination.

Comments checked by Richard Hawtin, Team Leader Property and Contracts 01295 221695

### **Wards Affected**

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**All**

### **Corporate Plan Themes**

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Cherwell: A district of opportunity  
Cherwell: A cleaner, greener district  
Cherwell: An accessible, value for money Council

## Lead Member

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**Councillor Debbie Pickford**  
**Lead Member for Housing**

## Document Information

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<b>Appendix No</b>	<b>Title</b>
None	
<b>Background Papers</b>	
<ol style="list-style-type: none"><li>1. Green Deal: A Proposal for Local Authorities (produced by USEA November 2011)</li><li>2. What is a Community Interest Company advisory note (legal reference material sourced through the Council's legal service)</li><li>3. Green Deal Providers Guide, DECC, April 2012</li></ol>	
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