

**Cheltenham Borough Council**

**Cabinet – 14<sup>th</sup> July 2015**

**Council – 20<sup>th</sup> July 2015**

**Housing Revenue Account New Build**

<b>Accountable member</b>	<b>Councillor Peter Jeffries, Cabinet Member Housing</b>
<b>Accountable officer</b>	<b>Martin Stacy, Lead Commissioner – Housing Services</b>
<b>Ward(s) affected</b>	<b>St Marks, Warden Hill, Up Hatherley and Springbank,</b>
<b>Key Decision</b>	<b>Yes</b>
<b>Executive summary</b>	In March 2015 Cabinet resolved that the Authority seek bids from contractors to build new homes across Cheltenham on a number of garage sites. Following a recent procurement exercise this report seeks approval to enter into a JCT Design and Build Contract with J Harper and Sons with Total Scheme Costs not to exceed £1,684,800. The scheme will deliver up to ten new homes on four HRA garage sites, representing the first Council owned stock built since the late 1980's.

**Recommendations**

**That Cabinet:-**

- 1. Subject to subsequent Council approval, authorise the Authority to accept the tender received from J Harper and Sons and enter into a JCT Design and Build Contract for the construction of up to ten new dwellings on the garage sites listed in section 2 of this report with Total Scheme Costs not to exceed £1,684,800.**
- 2. Delegate authority to the Head of Property and Asset Management, in consultation with the Borough Solicitor to:**
  - 2.1. Conclude the JCT Design and Build contract with J Harper and Sons including removing the Parkbury Close /Rowanfield Road site if planning permission is not granted;**
  - 2.2 Take all necessary steps and undertake all necessary procedures, including entering into any legal agreements or other documentation as may be required to implement or facilitate the developments.**
- 3. Authorise the Authority to charge Affordable Rents to all ten dwellings at 80% of Market Rents with the exception of the four bedroom dwelling proposed at Parkbury Close/Rowanfield Road. At this site authorise the Authority to charge 70% market rent.**

**Cabinet recommends that Council:**

4. Authorise the allocation of up to £1,684,000 for the construction of up to ten new dwellings on the garage sites listed in section 2 of this report.
5. Note that the total scheme costs of £1,684,800 (broken down in further detail in exempt appendix 3) will be funded by circa £500k of RTB receipts with the balance funded by the most appropriate combination of the other funding streams noted within the report – this decision being delegated to the Section 151 Officer in accordance with Financial Rules B7 and B8.
6. Approves the Authority sourcing loan finance of up to £1.0m from the Public Works Loan Board to be used for the construction of up to ten new dwellings on the garage sites listed in section 2 of this report.

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<b>Financial implications</b>	<p>As outlined in the report and exempt appendix.</p> <p>The development of a HRA new build programme will require an ongoing review of resource availability to ensure the most effective and timely use of each funding stream. The choice of funding streams is delegated to the Section 151 Officer.</p> <p>To ensure that the retention of RTB receipts are not put at risk it is important that development is commenced in October 2015.</p> <p><b>Contact officer: Paul Jones</b></p> <p><a href="mailto:Paul.Jones@cheltenham.gov.uk">Paul.Jones@cheltenham.gov.uk</a></p> <p><b>01242 775154</b></p>
<b>Legal implications</b>	<p>The Authority has the power under Section 9 of the Housing Act 1985 to build new housing accommodation on land it owns for that purpose. All of these sites are held for housing purposes.</p> <p>Due to the value of the JCT contract, the Authority's constitution requires Cabinet approval to the Authority awarding the contract.</p> <p>As the Authority owns the land on which the dwellings are to be constructed, it will be the Authority entering into the contract. CBH will monitor the contract and the progress of the build on the Authority's behalf with assistance from Employer's Agents engaged by the Authority.</p> <p><b>Contact officer: Donna Ruck, Solicitor,</b>  <a href="mailto:donna.ruck@tewkesbury.gov.uk">donna.ruck@tewkesbury.gov.uk</a> <b>01684 272696</b></p>
<b>HR implications (including learning and organisational development)</b>	<p>There are no direct HR implications arising from this report.</p>

<b>Key risks</b>	Please see risk assessment at Appendix 1 of this report.
<b>Corporate and community plan Implications</b>	By increasing the provision of new affordable housing we will be supporting our key strategic objective of strengthening our communities
<b>Environmental and climate change implications</b>	<p>The redevelopment of the sites will improve the area as they currently consist predominantly of void and poorly maintained garages.</p> <p>The quality of the proposed housing will have an impact on climate change. All of the dwellings will achieve a minimum of Code for Sustainable Homes level 3 adopting a 'fabric first' approach to energy efficiency. The intention is that Solar Photovoltaic panels will be installed to the houses to contribute towards the electricity generation in the dwellings.</p> <p><b>Contact Officer: Gill Morris, Climate Change and Sustainability Officer</b></p> <p><a href="mailto:gill.morris@cheltenham.gov.uk">gill.morris@cheltenham.gov.uk</a>, 01242 264229</p>
<b>Property/Asset Implications</b>	<p>The redevelopment of the sites will bring back into use current underutilised and surplus land, and add to the affordable housing stock.</p> <p>The potential party wall awards have been built into the the £1.684m total scheme costs.</p> <p><b>Contact officer: David Roberts, Head of Property Services</b></p> <p><a href="mailto:david.roberts@cheltenham.gov.uk">david.roberts@cheltenham.gov.uk</a>, 01242 264151</p>

## **1. Background**

- 1.1 In March 2015, Cabinet was provided with an update on the pipeline development programme for new build housing. Since then CBH has continued to work with Council Officers via the Joint Programme Group (JPG) to progress suitable sites for new build development within the Housing Revenue Account (HRA). The next tranche of dwellings will be owned by CBC rather than CBH to ensure Right to Buy (RTB) receipts are utilised, by their due date, to part fund the projects.
- 1.2 The redevelopment programme for redundant or underutilised garage sites was developed as the result of a comprehensive survey of all 80+ sites which considered garage condition and utilisation together with site redevelopment potential.
- 1.3 This phase of new build development comprises the redevelopment of four garage sites. CBH has experience in delivering new build housing on garage sites following the successful completion of 14 new dwellings on 4 sites in March-April 2014.
- 1.4 In addition, CBH continues to progress a number of other sites which includes the redevelopment of 5 further garage sites, the site at the corner of Swindon Road/Brunswick Street and the regeneration of Cakebridge Place. In total these developments will provide circa 48 new affordable dwellings.

## **2. Scheme Details**

- 2.1 This package of four garage sites includes the following:-

- A part used garage site at Coniston Road
- A part used garage site at Haweswater Road
- A predominantly derelict garage site at Parkbury Close/ Rowanfield Road
- A cleared garage site at Redgrove Road

The scheme will provide 10 homes comprising of a range of house types as follows to meet local housing need: 5 x 3 bed 5 person dwellings; 2 x 1 bed 2 person flats; 2 x 2 bed 3 person flats and 1 x 4 bed 7 person detached dwelling.

The sites are all in CBC's ownership and there are no acquisition costs.

- 2.2 Planning permission was granted for the sites at Coniston Road, Redgrove Road and Haweswater Road on 19<sup>th</sup> March 2015. The fourth site at Parkbury Close/Rowanfield Road is to be considered by the Planning Committee on 16<sup>th</sup> July. In the event that planning permission is not secured, this site will not proceed within this contract.
- 2.3 Due to the proximity of the proposed new dwellings at the Haweswater Road, Coniston Road and Redgrove Road sites in relation to existing housing the Party Wall Act will apply to a number of adjoining properties. A Party Wall Surveyor is to be appointed to ascertain the dwellings affected, serve the relevant Notices and negotiate Awards where necessary.

## **3. The Case for Garage Site Redevelopment**

- 3.1 One of the 3 key aims in the approved 30 year HRA business plan is to build new affordable homes in the Cheltenham area. This development proposal is an important first step in meeting this aim.
- 3.2 The benefits of proceeding with this development include:
  - it aligns with CBC's housing strategy by providing for current housing needs;
  - it ensures the redevelopment of redundant and problematic garage sites;
  - it provides ten high quality lifetime homes; and
  - it will further strengthen the HRA through positive cashflows from Year 1 and a significant

return on investment over 40 years (a net present value contribution in excess of £0.5m).

#### **4. Alternative Uses of RTB Receipts**

- 4.1 Following the re-invigoration of the RTB policy in 2012, the Government introduced complex rules on how the proceeds from sales are distributed and used. The Council has signed a retention contract (in common with most local authorities) which allows a significant proportion of such receipts to be kept by the authority on the proviso they are used to finance new build expenditure (at a ratio of 30% of eligible expenditure) within 3 years of receipt.
- 4.2 Right to Buy sales in Cheltenham since April 2012 have generated a total of £1.601m of retention receipts to date. The receipts are accrued on a quarter by quarter basis and the authority is required to use them within 3 years of the quarter in which they were realised. This would require total expenditure of £5.337m on new affordable housing by 31st March 2018 and the expenditure will also have to meet the phasing of the receipts. If the receipts are not used by the due date the Council is required to pay them over to Government with interest.
- 4.3 The receipts can only be used to fund “additional” affordable rented housing. These new homes can be new build council homes, newly acquired council homes (existing homes bought on the open market but not those already owned by a registered provider), or social housing provided through local authority grant to registered providers (but not one controlled by the authority i.e. not CBH). While it is the Government’s intention to encourage an increase in the supply of new housing (new build always being the favoured option) the receipts can be used to buy existing properties for conversion into affordable rent.
- 4.4 The 3 options noted above for use of RTB receipts have been considered in proposing this garage site redevelopment. These considerations, relating to the 3 options, are set out below:
  - 4.4.1 Council officers have been working with CBH to identify new build schemes which will satisfy the criteria for retaining and using RTB receipts and meet current housing need. The scheme brought forward for approval in this report is the first of a number currently under appraisal. Building new homes, in line with this scheme, provides the greatest financial contribution to the HRA of each of the 3 options for using RTB receipts set out above.
  - 4.4.2 Utilising the same level of funds, and RTB receipts, properties could be purchased from the open market and made available for affordable rent. This option could also provide additional council properties in line with housing need. However, full market price would need to be paid for stock that would be of a lower standard than this scheme provides. Depending on the age, price and availability of property purchased this could also result in fewer homes being provided and the financial contribution to the HRA would be lower than option 1 above.
  - 4.4.3 Granting the RTB receipts to an independent registered provider could provide new affordable rent properties in Cheltenham however there is no certainty that these will deliver additionality to existing development plans. In addition there would be no financial contribution to the HRA.
- 4.5 Further to the 3 options for using RTB receipts above, the possibilities of retaining the garage sites as is or selling the sites have been considered. Neither of these approaches gives an appropriate financial or qualitative return that would justify these approaches. Leaving the site ‘as is’ will not deliver any regeneration to strengthen these communities or deliver any significant financial contribution to the HRA. Selling these garage sites for private development does not accord with either the Council’s declared housing strategy or the HRA business plan objectives. Therefore the recommended approach is to redevelop these garage sites within the HRA.

#### **5. Other Funding Available for New Build**

- 5.1 In addition to RTB receipts new build expenditure in the HRA can be funded from the following sources:-
  - 5.1.1 External borrowing financed by the HRA – the level of borrowing was restricted by Government as part of the self- financing settlement in 2012, the “debt cap” for Cheltenham being set at £52.862m. Current HRA debt totals £44.75m, leaving £8.112m available to finance new expenditure.

- 5.1.2 Capital Receipts from HRA asset disposals not arising from RTB. These receipts are exempt from pooling regulations and can be used to finance any capital expenditure without time restraint or the conditions related to use of retention receipts as described above. The sum available at 31<sup>st</sup> March is £532,000. This will be increased by proceeds from the disposal of the St Pauls Phase 2 site in the current year (approximately £1.4m).
- 5.1.3 Revenue contributions from the HRA. The Council has previously resolved to transfer £2m from HRA reserves to an earmarked reserve for new build development. After using a proportion of that reserve to fund preliminary costs in 2014/15, the balance remaining at 31<sup>st</sup> March 2015 is £1.903m.
- 5.1.4 The Council can also consider funding the delivery of affordable housing schemes through the use of commuted sums received from developers.
- 5.1.5 The total sum available to finance new build, excluding RTB receipts, as at 31<sup>st</sup> March 2015 is £10.5m (excluding the further receipt from St Pauls Phase 2 in the current year). Use of these resources does not prejudice the delivery of the two other objectives in the HRA Business Plan i.e. further investment in the existing stock and tenant services.
- 5.2 The total scheme costs of £1.684m (broken down in further detail in exempt appendix 3) will be funded by circa £500k of RTB receipts with the balance funded by the most appropriate combination of the other funding streams noted above – this decision being delegated to the Section 151 Officer.

## **6. Affordable Rent**

- 6.1 Affordable Rent is a Homes and Communities Agency (HCA) product. The expectation of the HCA is that these rents should be set at 80% of market rents, unless approval has been given for these rents to be set at a lower level.
- 6.2 The majority of the dwellings CBC propose to build will be at 80% of market rent, however there is a risk that if the proposed 4 bedroom dwelling is set at the 80% level, then this will be unaffordable for larger households on low incomes.
- 6.3 Our concerns about the affordability of 4 bedroom dwellings being set at 80% of the market rent is also reflected in the Council's Strategic Housing Market Assessment, dated December 2014, which identified that of the rented affordable housing which needs to be delivered within the Joint Core Strategy area over the plan period to 2031, approximately 85% of new affordable rented 4 bedroom homes should be set at below 80% market rent.
- 6.4 Our concern is in particular for large families who at the time of accessing their accommodation can afford it, but who subsequently lose their employment. These families could be left in accommodation that is difficult, if not impossible to afford, leading to risks of rent arrears and unintentional homelessness; the consequence of which is that the Authority would still have a duty to rehouse these families into another suitable dwelling.
- 6.5 The Council currently has available, via its Housing Benefits Team, Discretionary Housing Payments (DHP) to top up Housing Benefit for households that are experiencing financial hardship across the private and social housing sectors. However DHP is intended to be only a time limited payment which is reviewed every three months, and there is no certainty that this funding will continue to remain available by the Department of Communities and Local Government at current levels or at all in the future. It should also be noted that DHP is not available to support households who are in work and not on benefits, but who are nevertheless still struggling to afford to make payments on their rent.
- 6.6 In view of these risks, the Homes and Communities Agency has confirmed that it will permit the Authority to charge rents at 70% of the market rent on the proposed 4 bedroom dwelling.
- 6.7 It is estimated that the cost to the Authority by charging a lower rent will be in the region of £30,000 per property over 40 years, taking account of various assumptions regarding annual rent increases etc. The benefit to the tenant will be approximately £20/week at current rent levels.

6.8 It should be noted that whilst our approach is consistent with the approach the Authority takes when setting rents on 4 bedroom affordable homes with developers as part of its negotiations on s.106 site applications, the decision to set our rents at below 80% of market rents will be taken on a case by case basis, and will in any event require the approval of the HCA.

## 7. Consultation and feedback

7.1 These proposals have been developed through consultation with key stakeholders including Ward Councillors.

7.2 Local residents surrounding the various sites have been written to confirming the intention to redevelop to provide new affordable housing. Prior to the formal submission of the planning applications a number of information sessions were arranged at local facilities to give residents and local stakeholders the opportunity to review the proposals.

7.3 Pre-application planning advice has been sought for each site and the schemes have been amended to incorporate comments from the Planning Department. The proposals submitted to the Planning Department reflect the feedback received from the information sessions, CBC Planning department and CBC and CBH staff members.

7.4 CBC Councillors have been consulted on the proposals via the Asset Management Working Group.

7.5 Following feedback received from local residents and the local ward Councillors in relation to concerns over the impact on parking provision due to the loss of garage spaces, CBH will be demolishing further underutilised garage sites, to leave them level and serviceable, providing additional off road parking to off-set the lost garage spaces which will be reviewed on an ongoing basis. These additional sites are at Grasmere Road, Thirlemere Road and Ullswater Road. These sites will be cleared and available for parking prior to the commencement of construction works on the redevelopment sites.

7.6 Contact with the current garage tenants will begin in the coming weeks with 'Notices to Quit' being issued giving garage tenants four formal weeks to surrender their licence. Where possible, CBH will work to reallocate available garages within close proximity to those affected.

7.7 Prior to the commencement of construction works, all affected residents will be written to and a further drop in session will be arranged for each site, to include meeting the contractor to unveil the intended site traffic plan etc.

## 8. Tender Validation

The report on tender from the project appointed Employers Agent and Quantity Surveyor, Baily Garner, confirms that the tender from J Harper and Sons is competitive in the current market and represents value for money for the size and scope of the works proposed. Please see exempt Appendix 2.

## 9. Indicative Programme

- **Planning achieved:** 19<sup>th</sup> March 2015 for Coniston Road, Redgrove Road and Haweswater Road. Planning Committee meeting date for Parkbury Close/Rowanfield Road 16<sup>th</sup> July.
- **Tenders returned:** 19<sup>th</sup> June 2015
- **Required approvals:** Cabinet (14<sup>th</sup> July) and Council (20<sup>th</sup> July)
- **Contract start date:** Pending the outcome of Cabinet and Council approval the intention is to award the contract to J Harper and Sons to follow late July/early August.
- **Start on site:** Assuming a 12 week lead in time the likely start on site date will be October 2015.
- **Practical Completion:** September 2016

## 10. Performance monitoring and review

- 10.1 JPG will continue to oversee the delivery of the forward programme of housing development. An Operational Group has been created consisting of key Officers from CBH and CBC to deliver day-to-day management and to provide JPG with performance monitoring and reporting data.
  - 10.2 The performance of the contractor will be monitored informally each week at regular site visits and formally each month at the monthly site meetings to ensure compliance with the contractual obligations of the JCT Design and Build contract.
  - 10.3 Close financial monitoring of the scheme will continue with costs monitored on a monthly basis to ensure budgets are not exceeded. Should any issues be encountered these will be discussed with CBC to ensure appropriate action is agreed.
- 11. Forward Actions**  
 Following approval of the recommendations contained herein, CBH to progress completion of the overall legal documentation and enter into the Build Contract.

<b>Report author</b>	<p><b>Contact officers: Alison Salter, CBH Development Project Manager</b>  <b><i>Alison.Salter@cheltborohomes.org</i></b></p> <p><b>01242 774612</b></p> <p><b>Martin Stacy, Lead Commissioner for Housing Services CBC</b>  <b><u><a href="mailto:Martin.Stacy@cheltenham.gov.uk">Martin.Stacy@cheltenham.gov.uk</a></u></b></p> <p><b>01242 775214</b></p>
<b>Appendices</b>	<ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Report on Tender from Baily Garner (confidential)</li> <li>3. Financial Assessment (confidential)</li> </ol>
<b>Background information</b>	Cabinet Report 17 <sup>th</sup> March 2015



## Risk Assessment

## Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the capital receipts held from RTB sales under the retention agreement with DCLG are not used within 3 years of receipt they are repayable with interest to the Government	Pat Pratley	December 2013	3	4	12	Reduce	CBC and CBH to work closely via JPG to monitor the programme to enable construction on the first sites to commence in the Autumn 2015; Review alternative ways of spending the RTB receipts; effective contract management	Dec 2015	Martin Stacy	
	If the contractor and/or its sub-contractors become insolvent or otherwise cease to trade, then this will adversely impact on the delivery of the programme	Pat Pratley	June 2015	3	3	9	Reduce	Effective contract management; inclusion of retention monies in contract; include Liquidated and Ascertained damages within the contract in the case of delays to the programme; ongoing dialogue with the contractor to monitor labour and resources	October 2016	Martin Stacy	
	If the existing garage tenants fail to vacate the garages within the required timescales to	Pat Pratley	April 2015	3	3	9	Reduce	Give garage tenants advance notice of notices to quits being issued; include a	October 2015	Martin Stacy	

	enable vacant possession of the site, then this will adversely impact on the delivery of the programme							contingency in the programme to accommodate clearing the garages			
	If significant adverse ground conditions and site contamination is identified, then this will impact on the delivery of the programme	Pat Pratley	April 2015	2	3	6	Reduce	Commission site investigations and issue detail to contractor, assume asbestos containing materials will be found in the existing garages	October 2015	Martin Stacy	
	If new rights of ways are identified on the proposed sites, then this could impact on the deliverability of the planning approved designs	Pat Pratley	April 2015	3	2	6	Reduce	Complete due diligence prior to formal award of build contract to ensure there are no visible rights of way; secure indemnity insurance via Onelegal to protect the Council's interests in the event of any right of way claims	October 2015	Martin Stacy	

**Explanatory notes**

**Impact** – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

**Likelihood** – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

**Control** - Either: Reduce / Accept / Transfer to 3rd party / Close

