

Cheltenham Borough Council
Cabinet – 8th December 2015
Council – 14th December 2015

Housing Revenue Account New Build – Swindon Road Site

Accountable member	Councillor Peter Jeffries, Cabinet Member Housing
Accountable officer	Martin Stacy, Lead Commissioner – Housing Services
Ward(s) affected	St Pauls
Key Decision	Yes
Executive summary	In March 2015 Cabinet resolved that the Authority seek bids from contractors to build new homes on the redevelopment of the site at the corner of Swindon Road/Brunswick Street. 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 £1,439,500. The scheme will deliver ten new homes.

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 ten new dwellings with Total Scheme Costs not to exceed £1,439,500.**
- 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.**
 - 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.**

Cabinet recommends that Council:

- 4. Authorise the allocation of up to £1,439,500 for the construction of ten new dwellings.**
- 5. Note that the total scheme costs of £1,439,500 (broken down in further detail in exempt appendix 3) will be funded by circa £430k 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 ten new dwellings.**

<p>Financial implications</p>	<p>As outlined in the report and exempt appendix.</p> <p>The development of an 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>Contact officer: Paul Jones</p> <p>Paul.Jones@cheltenham.gov.uk</p> <p>01242 775154</p>
<p>Legal implications</p>	<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. This site is 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>Contact officer: Rose Gemmell, Solicitor</p> <p>rose.gemmell@tewkesbury.gov.uk 01684 272014</p>
<p>HR implications (including learning and organisational development)</p>	<p>There are no direct HR implications arising from this report.</p>
<p>Key risks</p>	<p>Please see risk assessment at Appendix 1 of this report.</p>
<p>Corporate and community plan Implications</p>	<p>By increasing the provision of new affordable housing we will be supporting our key strategic objective of strengthening our communities</p>

<p>Environmental and climate change implications</p>	<p>The redevelopment of the site will improve the area as it currently consists of derelict commercial units.</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>Property/Asset Implications</p>	<p>The redevelopment of the site will bring back into use current underutilised land and add to the affordable housing stock.</p> <p>The potential party wall awards have been built into the £1.439m Total Scheme Costs.</p> <p>Should this HRA site not be developed for affordable housing then the only other development the planners would support will be commercial for which there would be limited demand.</p> <p>Contact officer: David Roberts, Head of Property Services david.roberts@cheltenham.gov.uk, 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 project.
- 1.2 The redevelopment of the site at Swindon Road resulted from a comprehensive survey of all CBC owned assets which considered their current use together with site redevelopment potential.
- 1.3 The site consists of a former car mechanics garage the lease of which has expired and the tenant has vacated the property.
- 1.4 CBH continues to progress a number of other sites which includes the redevelopment of 5 further garage sites and the regeneration of Cakebridge Place/Whaddon Road. In total these developments are expected to provide circa 26 new affordable dwellings.

2. Scheme Details

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

The site is in CBC's ownership and there is no acquisition cost.

- 2.2 Planning permission was granted for the redevelopment of the former commercial site on 16th July 2015.
- 2.3 Due to the proximity of the proposed new dwellings in relation to existing housing the Party Wall Act will apply to a number of adjoining properties. A Party Wall Surveyor has been appointed to ascertain the dwellings affected, serve the relevant Notices and negotiate Awards where necessary.

3. The Case for 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 important in meeting this aim.
- 3.2 The benefits of proceeding with this development include:
 - it aligns with CBC's housing strategy by helping to provide for current housing needs;
 - it ensures the redevelopment of underutilised land within the HRA;
 - it provides ten high quality homes; and
 - it will further strengthen the HRA through positive cashflows from Year 1 and a significant return on investment over 40 years (a present value contribution in excess of £0.4m assuming funding via £430k of RTB receipts, £700k of loan and £310k of HRA new build reserves). *It should be noted that the present value contribution may change depending on the final funding structure.*

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 £1.716m of retention receipts as at 30 September 2015. 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 £5.720m on new affordable housing by 30 September 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 redevelopment. The 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 one 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 possibility of selling the site has been considered. An independent valuation of the site has been commissioned based on affordable housing development. This independent report shows that no additional value can be gained by selling this site. Therefore the recommended approach is to redevelop this site 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 31st March 2015 was £532,000. This is being increased by proceeds from the disposal of the St Pauls Phase 2 site in the current year (approximately £1.4m in total) and proceeds from the sale of three additional properties (approximately £0.4m), having been approved by Cabinet for market disposal.
 - 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 the reserve to fund preliminary costs in 2014/15, the balance remaining at 31st March 2015 was £1.903m. This is currently being used to finance new build expenditure in 2015/16 prior to a final funding decision by the Section 151 Officer.
 - 5.1.4 The Council can also consider funding the delivery of affordable housing schemes through the use of commuted sums received from developers.
 - 5.2 The total scheme costs of £1.439m (broken down in further detail in exempt appendix 3) will be funded by circa £430k 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. Consultation and feedback

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

6.2 Local residents surrounding the site were written to confirming the intention to redevelop to provide new affordable housing. Prior to the formal submission of the planning application two information sessions were arranged at a local facility to give residents and local stakeholders the opportunity to review the proposals.

6.3 Pre-application planning advice was sought and the scheme has 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.

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

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

7. Tender Validation

The report on tender from the project appointed Employers Agent and Quantity Surveyor, PMP, 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.

8. Indicative Programme

- Planning achieved: 16th July 2015
- Tenders returned: 16th October 2015
- Required approvals: Cabinet (8th December) and Council (15th December)
- 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.
- Start on site: Assuming a 12 week lead in time the likely start on site date will be March 2016.
- Practical Completion: Anticipated January 2017.

9. 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 to ensure appropriate action is agreed.

10. Forward Actions

Following approval of the recommendations contained herein, CBH to progress completion of the overall legal documentation and CBC enter into the Build Contract.

Report authors	Contact officers: Alison Salter, CBH Development Project Manager Alison.Salter@cheltborohomes.org 01242 774612 Martin Stacy, Lead Commissioner for Housing Services CBC Martin.Stacy@cheltenham.gov.uk 01242 775214
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Site location plan 3. Report on Tender from PMP (confidential) 4. Financial Assessment (confidential)
Background information	Cabinet Report 17 th March 2015

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	2	6	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; Acquire properties off the open market to utilise RTB receipts as approved by Cabinet November 2015.	March 2016	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	January 2017	Martin Stacy	
	If significant adverse ground conditions and site contamination is identified, then this will impact on the delivery of the programme	Pat Pratley	April 2015	3	4	12	Reduce and/or transfer to a 3 rd party	A Site investigation has been completed and issued to the contractor, assume asbestos containing materials will be found in the existing buildings. If additional unknowns are identified which require further specialist intervention, issue the contractor with the report findings and engage in detailed	March 2016	Martin Stacy	

								discussions with the specialist as to how to manage the risk. Include a contingency in the scheme costs.			
	The logistics of the site (restricted access into the site and limited capacity on site) pose issues for construction traffic and have an adverse impact on construction and adjoining residents.	Pat Pratley	September 2015	3	4	12	Transfer to 3 rd party	Contractor was issued with site details at tender stage and visited the site numerous times. The Contractor is to issue a pre construction health and safety plan prior to commencing works which will address their approach to the site access constraints	From March 2016	Martin Stacy	
	The cost of services connections is in excess of the provisional sums allowed. Issues with the timing as to when the services are connected are encountered causing a delay to the programme.	Pat Pratley	September 2015	3	3	9	Transfer to 3 rd party	Include a contingency to account for additional costs associated with services connections. Engage with the contractor following approval to enter into contract to enable critical pre construction work to commence and services applications.	From March 2016	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