

**Cheltenham Borough Council**

**Cabinet – 8<sup>th</sup> March 2016**

**Council – 4<sup>th</sup> April 2016**

**Housing Revenue Account New Build- Garage site redevelopment**

<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, Up Hatherley and Hester's Way</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 £1,405,150. The scheme will deliver up to eight new homes on three HRA garage sites.
<b>Recommendations</b>	<p><b>That Cabinet:-</b></p> <ol style="list-style-type: none"><li><b>1. Subject to subsequent Council approval, authorise the Authority to accept the tender received from J Harper and Sons enter into a JCT Design and Build Contract for the construction of up to eight new dwellings with Total Scheme Costs not to exceed £1,405,150.</b></li><li><b>2. Delegate authority to the Head of Property and Asset Management, in consultation with the Borough Solicitor to:</b><ol style="list-style-type: none"><li><b>2.1. Conclude the JCT Design and Build contract with J Harper and Sons.</b></li><li><b>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.</b></li></ol></li><li><b>3. Authorise the Authority to charge Affordable Rents to the 2 and 3 bed properties at 80% of Market Rents and at 70% of Market Rents for the 4 bed dwelling.</b></li></ol> <p><b>Cabinet recommends that Council:</b></p> <ol style="list-style-type: none"><li><b>4. Authorise the allocation of up to £1,405,150 for the construction of eight new dwellings.</b></li><li><b>5. Note that the Total Scheme Costs of £1,405,150 (broken down in further detail in exempt appendix 3) will be funded by circa £420k of RTB receipts with the balance funded by the most</b></li></ol>

**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 eight new dwellings.**

<b>Financial implications</b>	<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><b>Contact officer: Paul Jones, Head of Finance</b></p> <p><b><i><a href="mailto:Paul.Jones@cheltenham.gov.uk">Paul.Jones@cheltenham.gov.uk</a>/01242 775154</i></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 the Employer's Agent engaged by the Authority.</p> <p>The sites are affected by third party rights. These will need to be addressed and resolved prior to commencement of works on site.</p> <p><b>Contact officer: Rose Gemmell, Solicitor</b></p> <p><b><i><a href="mailto:rose.gemmell@tewkesbury.gov.uk">rose.gemmell@tewkesbury.gov.uk</a> / 01684 272014</i></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>	<p>Please see Risk Assessment at Appendix 1 of this report.</p>
<b>Corporate and community plan Implications</b>	<p>By increasing the provision of new affordable housing we will be supporting our key strategic objective of strengthening our communities.</p>

<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.</p>
<b>Property/Asset Implications</b>	<p>The redevelopment of the sites is a positive proposal that will bring back into use current underutilised land (former garage sites) and add to the affordable housing stock, providing much needed affordable homes.</p> <p>Various 'rights of way' require formal legal amendments altering their current course to facilitate the unhindered ability to deliver the proposed schemes. Negotiations are progressing and these risks have been captured on the risk register. Works should not start on site until these 'rights of way' issues have been formally resolved. The costs of negotiating the various rights of access to include legal fees have been built into the Total Scheme Costs at £1,405,150, along with potential Party Wall Awards.</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 enable Right to Buy (RTB) receipts to be utilised 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 The Council contracted with J Harper and Sons in October 2015 to deliver 10 new homes on four former garage sites. These new homes will be completed by the end of October 2016.
- 1.4 The redevelopment of the redundant site at the corner of Swindon Road/Brunswick Street is due to commence shortly with works to be completed by Spring 2017.
- 1.5 The next phase of new build development comprises the redevelopment of three 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.
- 1.6 In addition CBH continues to progress a number of other sites which includes the redevelopment of 3 further garage sites and the regeneration of Cakebridge Place. In total these developments will provide circa 28 new affordable dwellings.

## **2. Scheme Details**

- 2.1 This phase of three garage sites includes the following:-
  - A predominantly derelict garage site at Rowanfield Exchange
  - A cleared garage site at Hester's Way Road
  - A cleared site at Ullswater Road.
- 2.2 The scheme will provide up to 8 homes comprising of a range of house types as follows to meet local housing need: 5 x 3 bed 5 person dwellings; 2 x 2 bed 4 person dwellings and 1 x 4 bed 7 person detached dwelling.
- 2.3 The sites are all in CBC's ownership and there are no acquisition costs.
- 2.4 Planning permission was granted for the redevelopment of the Ullswater Road site on 19<sup>th</sup> March 2015, Hester's Way on 17<sup>th</sup> September 2015 and Rowanfield Exchange on 18<sup>th</sup> February 2016.

## **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. The development proposals are important in meeting this aim.
- 3.2 The benefits of proceeding with the developments include:
  - They align with CBC's housing strategy by helping to provide for current housing needs;
  - They ensure the redevelopment of underutilised land within the HRA;
  - They will provide up to eight high quality homes; and
  - 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 £420k of RTB receipts, £700k of loan and £284k of HRA new build reserves).  
*It should be noted that the present value contribution may change depending on the final*

#### **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 RTB sales in Cheltenham since April 2012 have generated a total of £1.807m of retention receipts as at 31 December 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 £6.023m on new affordable housing by 31 December 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 these developments. 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 schemes brought forward for approval in this report are 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.

#### **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 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 property assets (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 31<sup>st</sup> 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 £1.405m (broken down in further detail in exempt Appendix 3) will be funded by circa £420k 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 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.
- 6.3 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.
- 6.4 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.
- 6.5 CBC Councillors have been consulted on the proposals via the Asset Management Working Group.
- 6.6 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 has provided additional off road parking in Up Hatherley to off-set the loss of parking at Ullswater Road.
- 6.7 The garages at Rowanfield Exchange are now void and tenants offered an alternative garage within close proximity to their home.
- 6.8 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.

## **7. 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.

## **8. Indicative Programme**

- **Planning achieved:** 19<sup>th</sup> March 2015 for Ullswater Road, 17<sup>th</sup> September 2015 for Hester's Way Road and 18<sup>th</sup> February 2016 for Rowanfield Exchange.
- **Tenders returned:** 15<sup>th</sup> January 2016
- **Required approvals:** Cabinet (8<sup>th</sup> March) and Council (4<sup>th</sup> April)
- **Contract start date:** Pending the outcome of Cabinet and Council approval the intention is to award the contract to J Harper and Sons in April.
- **Start on site:** Assuming a 12 week lead in time the likely start on site date will be July 2016.
- **Practical Completion:** Anticipated by Summer 2017.

## 9. Performance monitoring and review

- 9.1 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.
- 9.2 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.
- 9.3 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.

## 10. Forward Actions

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

## 11. Reasons for Recommendations

Cabinet are asked to confirm their continuing support for the proposed developments and approve the decision to enter into contract with J Harper and Sons.

<b>Report authors</b>	<b>Contact officers:</b>  <b>Alison Salter, CBH Development Project Manager</b> <a href="mailto:Alison.Salter@cheltborohomes.org">Alison.Salter@cheltborohomes.org</a> 01242 774612  <b>Martin Stacy, Lead Commissioner for Housing Services CBC</b> <a href="mailto:Martin.Stacy@cheltenham.gov.uk">Martin.Stacy@cheltenham.gov.uk</a> 01242 775214
<b>Appendices</b>	1. Risk Assessment  2. Report on Tender from Baily Garner (confidential)  3. Financial Assessment (confidential)
<b>Background information</b>	Cabinet Report 17 <sup>th</sup> 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
1	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.	Tim Atkins	December 2013	3	2	6	Reduce	CBC and CBH to work closely via JPG to monitor the programme to enable construction of approved sites to commence in accordance with indicative timescales. In November 2015 Cabinet approved option to acquire properties from the open market subject to a total consideration cap of £1million paid for the entire portfolio should there be a need to spend RTB receipts sooner than what can be achieved within our	July 2016	Martin Stacy	



								existing pipeline of development.			
2	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.	Tim Atkins	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	July 2017	Martin Stacy	
3	If adverse ground conditions and site contamination is identified, then this will impact on the delivery of the programme.	Tim Atkins	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.	July 2016	Martin Stacy	
4	If amendments to the Rights of way that have been identified at	Tim Atkins	April 2015	4	3	12	Reduce	The tender was worded to enable CBC to withdraw a site from the	June 2016	David Roberts	

	Hester's Way Road and Ullswater Road and existing legal rights at Rowanfield Road are not formally agreed with the relevant owners, then the Council will be unable to progress with developing on those sites.							package in the event that the rights of way cannot be agreed with the relevant owners. The build contract will not be executed until the various rights of way have been formalised via the due legal process.			
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**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