

Cheltenham Borough Council

Cabinet – 3rd March 2020

Housing Revenue Account – Acquisition of Monkscroft School site

Accountable member	Councillor Peter Jeffries, Cabinet Member Housing
Accountable officers	Dominic Stead, Head of Property and Assets, Cheltenham Borough Council
Ward(s) affected	St Marks and Hester's Way
Key Decision	Yes
Executive summary	<p>Cabinet is asked to approve the acquisition of the Monkscroft School site for the sum of £2.5 million pounds for the purpose of developing a wholly affordable housing scheme of 60+ new homes. The Monkscroft School site is a key strategic priority for Cheltenham Borough Council (CBC) and Cheltenham Borough Homes (CBH) to assist us delivering:</p> <ul style="list-style-type: none">• much needed affordable homes to service the waiting list,• the wider regeneration aspirations in the area, and• improved connectivity between the existing communities at Hester's Way/St Marks and the proposed new communities at West Cheltenham, to complement the ongoing plans for the development of the Cyber Park. <p>Over the last nine months, CBC and CBH officers have been working in partnership with Gloucestershire County Council (GCC) to agree pricing that is acceptable to both sides following independent valuations from external consultants. CBC's independent Red Book Valuation (via JLL) supports the £2.5m acquisition value for the site on the basis of a wholly affordable scheme.</p> <p>CBC and GCC also have a joint aspiration to bring forwards new development sites at Old Gloucester Road on a collective basis. In agreeing to provide GCC with suitable access to their site via CBC's Arle Nurseries site, CBC were able to reach agreement upon an off-market purchase of the Monkscroft School site whilst still providing GCC with best consideration for the land.</p> <p>GCC have previously applied for outline planning permission on the site for 60 homes which was recommended for approval by CBC Planning colleagues. Discussions have been ongoing with CBC Planning colleagues and the urban design team and it is CBH's view that the site may support a higher density scheme. The proposed development of 60+ new homes can support a land value of £2.5m and provide a financially viable scheme and positive return on investment into the HRA over 40 years. Homes England funding would be required to deliver a fully affordable site and we understand from Homes England that they would be supportive of a bid on this basis.</p> <p>The acquisition is expected to be completed in the next three months and</p>

full Council, at its meeting in February 2020, approved sufficient budget to finance development within the HRA including the acquisition of land. The site will be acquired as unencumbered freehold land and unconditional in relation to planning permission.

CBH and CBC are in receipt of the necessary site investigation reports and in advance of agreement of the detailed 'Heads of Terms' with GCC, CBC and CBH officers will ensure that there are no site abnormalities before entering into an unconditional contract.

The site acquisition of Monkscroft School is expected to unlock the opportunity to regenerate the 'Cornish' non-traditional build properties at Pitman Road which is adjacent to the site and potential further regeneration in the West Cheltenham area.

Recommendations

Cabinet is recommended to:-

- 1. approve the acquisition of Monkscroft School site on an unconditional basis for £2.5m (exclusive of VAT)**
- 2. approve the development of the site for affordable housing to be owned by the Authority**
- 3. note that CBH, on behalf of the Authority, will apply for planning permission and conduct procurements to select contractors to carry out the design and construction of the new housing on this site**
- 4. note that subject to the tenders for the construction of the new housing being within the budgets approved by full Council and the receipt of planning permission, the Cabinet Member – Housing will approve the number of dwellings to be provided and will authorise the award of the contracts to the successful bidders where contracts are in excess of £100,000**
- 5. delegate authority to the Executive Director – Finance and Assets, in consultation with the Cabinet Member Housing to:-**
 - a. submit and accept bids to Homes England for grant funding to support the delivery of new affordable housing and, subject to consultation with the Borough Solicitor, enter into required grant agreements**
 - b. agree the tenure of the affordable housing that will be delivered on the site**
- 6. delegate authority to the Head of Property, in consultation with the Borough Solicitor, to take all necessary steps and undertake all necessary procedures, including:**
 - a. finalising the Heads of Terms for the acquisition and entering into any legal agreements for the purchase of the site; and**
 - b. entering into legal agreements and contracts which do**

not exceed £100,000 or other documentation as may be required to implement or facilitate the development

Financial implications	<p>As outlined in the report.</p> <p>A number of financial appraisals have been undertaken by CBH, based on the mix proposed by GCC in their outline planning application for 60 dwellings as well as scenarios with 60+ homes. The total scheme costs (including the cost of the land) could be in the region of £12-16m with support from Homes England grant funding anticipated in the region of £2-3m. Each of these appraisals indicate a positive return for the HRA over 40 years.</p> <p>Full Council, at its meeting in February 2020, approved sufficient budget to finance new supply within the HRA including the acquisition of the Monkscroft School site and its redevelopment.</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 Executive Director- Finance and Assets.</p> <p>Contact officer: Paul Jones, Executive Director- Finance and Assets</p> <p><u>Paul.Jones@cheltenham.gov.uk</u></p> <p>01242 265154</p>
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<p>Legal implications</p>	<p>The Authority has a general duty to act prudently when purchasing land; to this end, the Authority has sought advice from an external valuer to negotiate the purchase price.</p> <p>Due diligence will be required to ensure that the site meets the requirements for development. This includes site inspections to ascertain whether there are any undocumented third party rights, checking title to the land, undertaking appropriate searches and making enquiries of the County Council as landowner. If the County Council hold the land for education purposes, the Authority will need to be satisfied that the appropriate consents have been obtained for the disposal.</p> <p>Stamp Duty Land Tax (SDLT) and VAT (if the County Council have opted to tax the land) will need to be paid on the purchase price. If the County has opted to tax the land then SDLT will be payable on the combined figure of the purchase price plus VAT.</p> <p>The Authority has the power to acquire land for housing development under Section 17 of the Housing Act 1985 (the Act). Any subsequent disposals, including by way of shared ownership leases will have to be under Section 32 of the Act and the General Housing Consents issued thereunder.</p> <p>The Authority has powers under Section 9 of the Act to build new housing accommodation on land it owns for that purpose. The Authority's contract rules and the Public Contracts Regulations 2015 will need to be complied with when procuring the design and construction team. Early advice should be sought from Publica Procurement as to the most suitable procurement options. Before the design and construction team commences work appropriate legal documentation prepared or approved by One Legal must be completed.</p> <p>In certain circumstances school playing fields may be listed as Assets of Community Value, but as an unconditional contract is regarded as a "disposal" for the purposes of the relevant sections of the Localism Act the purchase would not be caught if a listing took place between contract and completion. However, if the development did not then take place before a further transfer, and the property was listed either prior to purchase or in the intervening period, then there is the possibility of such future transfer being delayed.</p> <p>Please note that the risk register identifies specific legal risks relating to planning permission and the risk of an application to register the property as a Town or Village Green.</p> <p>Contact officer: Donna Ruck, Senior Lawyer and Rose Gemmell Senior Lawyer, donna.ruck@teWKesbury.gov.uk 01684 272696</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. The proposed scheme supports the aspirations of the Place Strategy for Cheltenham, approved in March 2018, to focus on housing delivery as a priority with the aspiration to increase the number of affordable, accessible, safe and secure housing, and to build strong, healthy and inclusive communities.</p>
<p>Environmental and climate change implications</p>	<p>The overall environmental performance of the properties will be discussed once the project team has been assembled. We will assess the financial viability of schemes with a view to reducing the carbon footprint, thereby seeking to support the Council's aim to be carbon neutral by 2030.</p>
<p>Property/Asset Implications</p>	<p>A robust asset acquisition process and procedures framework will need to be in place and executed to ensure that the project runs smoothly and quickly budgeting of costs for the acquisition of the site have been established and are within budget parameters set by CBH. The relationship with external partners such as solicitors, surveyors and engineers must remain close to ensure that the limited resource at CBH and CBC is supported during the acquisition and future development.</p> <p>The paper recommends the acquisition of the Monkscroft school site which has widespread implications on the property and asset management programme of the council. The report sets out the key considerations.</p> <p>Contact officer: Dominic Stead, Head of Property and Asset Management</p> <p>Dominic.Stead@cheltenham.gov.uk 01242 264151</p>

1. Background

- 1.1** The Joint Core Strategy (JCS) of 2017 highlighted key areas for future housing of which strategic allocations (sites over 450 dwellings) provide the largest component, almost 36% of identified housing supply. The remaining component will need to be met from the development of non-strategic sites such as Monkscroft School.
- 1.2** The approved CBC Corporate Plan (2019-2023) aims to increase the supply of affordable housing in Cheltenham with a shared CBC and CBH aspiration of working towards a target of 500 additional homes over the next 4 years to meet local demand. There are a number of routes by which CBC and CBH are increasing the number of homes supplied and a significant contribution by volume is the acquisition of land for development either directly or in conjunction with a developer partner.
- 1.3** The Council's ALMO, Cheltenham Borough Homes (CBH), has also been working with Council officers via the Operational Working Group (OWG) and Strategic Housing Delivery Group (SHDG) to identify suitable sites for new build within the HRA. CBH is currently drafting a Development Strategy on behalf of CBC which will explore the potential for further pipeline regeneration and new build opportunities. This work will be complemented by a review of all funding options and sources in order to identify longer term capacity and constraints.
- 1.4** Development of the adjacent Cyber Park Land will bring much needed investment to the area with the potential to deliver significant employment opportunities alongside increased and improved amenities for residents. Allied to the regeneration opportunities to be triggered by this land acquisition, this represents an opportunity to deliver significant and much needed improvements to the whole of the West Cheltenham area.

2. Site and Negotiation Details

- 2.1** The location is the former site of Monkscroft School which closed in 2008 and is situated off Shelley Road and Shakespeare Road. The land is owned by GCC and comprises 4.42 acres (1.79 ha) of greenfield land.
- 2.2** The site does not have the benefit of planning consent , however, the site has been allocated for residential development in the Cheltenham Local Plan. In July 2019, GCC submitted an outline planning application to provide circa 60 dwellings which was recommended for approval by Planning Committee (planning reference 19/01190/OUT). The scheme was deferred at October's planning committee with the request for further information about proposed highways arrangements and a review of the proposed site layout plan. The proposed scheme of 60 dwellings was noted by the Architects Panel as a low density scheme of only 33 dwellings per

hectare with the request that the proposed site layout be reviewed. Through discussions at SHDG with CBC Head of Planning and from reviewing the proposed site layout that could be supported, should CBC acquire the site, CBH is confident that a higher density scheme can be supported on the site with the intention to progress a detailed planning application on this basis once contracts have been exchanged.

- 2.3 The site comprises an open field which is relatively level. The site is bounded by a mix of trees and hedgerows along with a 1.8 metre high metal security fence that runs along the whole of the perimeter. The St Mark's (Poet's) Conservation Area is located to the east and adjacent to the site however the site itself falls outside of the designated Conservation Area. There are no buildings on the site and no listed buildings within the immediate vicinity.
- 2.4 It is understood that all mains services are available at the site. The Environment Agency Flood Map for Planning (Rivers and Sea) has been reviewed which shows the site is in an area at very low risk of flooding, having a less than 1 in 1,000 annual probability of river or sea flooding.
- 2.5 GCC has issued a copy of the detailed Site Investigation report to CBH for review. The site investigation does not indicate any significant deleterious material which would hinder the redevelopment of the site. CBH is in the process of seeking the required letters of reliance from third party consultants including the site investigation company to ensure that the details can be relied upon.
- 2.6 In addition, CBC and GCC have a joint aspiration to bring forwards the development sites at Old Gloucester Road on a collective basis. In agreeing to provide GCC with suitable access to their land via CBC's Arle Nurseries site, CBC were able to reach agreement upon an off-market purchase of the Monkscroft School site.

3. Reasons for recommendation

- 3.1 Valuations have been completed for the site, by both CBC and GCC, each of which contain different assumptions in relation to base build costs and anticipated sales values to then calculate the Gross Development Value and residual land value.
- 3.2 In addition GCC instructed the District Valuer to undertake a market assessment of the value of the site; this resulted in a residual land value of £3m. CBH, on behalf of CBC, instructed JLL to complete a Red Book Valuation on the basis of providing a wholly affordable scheme, assuming no Community Infrastructure Levy (CIL), and receipt of Homes England (HE) grant funding which returned a residual land value of £2.5m. This therefore supports the recommended acquisition price.
- 3.3 Discussions have been ongoing with HE who have outlined that they could support the delivery of

the site as a wholly affordable development with grant funding via the 2016-2021 Affordable Homes Programme (AHP). Although this programme officially ends in March 2021, given the Government's focus on delivering affordable housing it is unlikely that the programme will cease. Homes England have confirmed that they would support the delivery of a wholly affordable scheme and we would be able to take advantage of the current attractive grant rates for affordable housing to include supporting an element of social rented homes on the site.

- 3.4** A number of financial appraisals have been undertaken by CBH, based on the mix proposed by GCC in their outline planning application for 60 dwellings as well as scenarios with 60+ homes. These appraisals varied from a market led scheme (assuming a policy compliant scheme providing 40% affordable housing) to a 100% affordable housing scheme (with a number of different affordable tenures also considered within this). Based on an acquisition price of £2.5m, a wholly affordable scheme with HE funding is considered the most attractive option with a positive net return on investment after 40 years. Acquisition of the site at the recommended price is therefore financially viable for development within the HRA.
- 3.5** One of the 3 key priorities in CBC's approved 30-year HRA business plan is to provide new affordable homes in the Cheltenham area. Increasing the supply of housing is also a key priority within the council's corporate strategy, and this is also reflected in CBC's Housing and Homelessness Strategy. The benefits of proceeding with this site include:
- helping to deliver on the aspiration of a step change in housing delivery for Cheltenham as set out in the Housing Investment Plan approved by Council in October 2018,
 - helping to support current housing need by providing 60+ new homes,
 - helping to reduce the Cheltenham affordable housing waiting list by providing a mixture of social and affordable rent properties,
 - helping to support first time home ownership by providing a proportion of shared ownership homes as part of the scheme,
 - helping to unlock possible regeneration of Cornish non-traditional build properties at Pitman Road and the aspiration for wider regeneration of properties in West Cheltenham, and
 - strengthening the HRA through a positive return on investment over 40 years.
- 3.6** If the site were acquired within the next three months it is anticipated that the following 12 months would see the procuring of a project team, submission and agreement of planning permission and procurement of a lead contractor. Delivery of the development would then be achieved over the following 2 years.

4. Alternative options considered

- 4.1** CBC could apply for a conditional sale (subject to planning permission) and ensure there is 100% certainty before progressing with the acquisition. However, following positive initial planning discussions that securing planning is highly achievable, the risk of not obtaining planning permission is considered low in comparison to the risk of other purchasers having the opportunity to bid for this strategically important site for CBC and CBH. Hence the recommendation to proceed with an unconditional sale.

5. Consultation and feedback

- 5.1** The details of the schemes have been discussed and are supported by key officers who attend the CBC/CBH OWG and SHDG and the Cabinet Member for Housing.
- 5.2** Prior to the submission of a revised planning application, the proposed scheme details will be discussed with local residents and stakeholders to include the Cheltenham Civic Society. In line with other new build developments, prior to the commencement of construction works, all affected residents will be written to and a further drop in information session will be arranged, to include meeting the contractor to give local residents and stakeholders the chance to meet the project team and ask any questions they may have.

6. Performance management - monitoring and review

- 6.1** For sites to be developed for new build housing, the governance structure for new build schemes would apply, overseen by the joint CBC/CBH SDHG and the CBC/CBH OWG. The CBC Property Team will manage the acquisition process of the site with the CBH Development Team managing the development of the site. The aforementioned groups will monitor the overall transaction, alongside the other development opportunities that materialise as part of the current pipeline of work.
- 6.2** The performance of the appointed 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 a JCT Design and Build contract.
- 6.3** 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 and mitigation measures are agreed.

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Appendices	1. Risk Assessment 2. Plan
Background information	None

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
1	If GCC change the terms of the agreement and demand a higher price for the land or reconsider selling the site on the open market, the acquisition may not be viable for CBC to acquire.	Dominic Stead	January 2020	4	2	8	Accept	Maintain the key partnership with GCC and ensure ongoing dialogue between Paul Jones (CBC) and Steve Mawson (GCC). Formalise and agree Heads of Terms with GCC as a priority to reinforce the commitment by CBC to work in partnership with GCC to secure Monkscroft School site and work in collaboration in relation to the Old Gloucester Road sites.		Alison Salter and Dominic Stead	
2	If the Authority enters into an unconditional contract for the acquisition of the land prior to the grant of planning permission, there is a risk that the permission will not be granted in terms that match the Authority's	Dominic Stead/Alison Salter	January 2020	4	2	8	Reduce	Undertake further due diligence prior to the exchange of contracts with GCC to discuss access arrangements with highways colleagues. Continue formal pre-application planning discussions with CBC Planning colleagues to ensure any proposed site plan		Alison Salter/Dominic Stead	

	<p>requirements (or at all). There is also the possibility that the Secretary of State, either of his own accord or as a result of a third-party request, may decide to call in the planning application for his own determination if the application meets certain criteria. Although a conditional contract would be a safer route for the Authority, whether or not the contract is conditional upon the planning permission being obtained there is a risk of the contract being set aside if a higher offer is made to the County</p>							that is developed meets the requirements of planning colleagues.			
3	<p>If site abnormalities are identified once the site has been acquired, this may lead to higher build costs and undermine the</p>	Dominic Stead/Alison Salter	January 2020	4	2	8	Reduce	<p>Review the site investigation report and seek letters of reliance from third party consultants.</p>		Alison Salter	

	viability of the scheme.										
4	If the scheme is subject to a Judicial Review (either planning or procurement) this may threaten the deliverability of the scheme.	Dominic Stead/Alison Salter	January 2020	5	1	5	Accept	Work with procurement colleagues to ensure timely notices are issued to tendering contractors with feedback. Wait until the statutory timescales have lapsed.			
5	If Homes England funding is not secured then alternative funding sources will need to be identified and built into the financial appraisal	Paul Jones	January 2020	5	1	5	Reduce	Continue dialogue with Homes England to have certainty that funding will be secured.		Alison Salter (CBH) Martin Stacy (CBC)	
6	If market conditions change a contractor partner may not be identified. In addition if the proposed details of the scheme are not considered in relation to whole life costs and anticipated build cost estimates are exceeded once tendered, the scheme would be	Paul Jones	January 2020	4	2	8	Reduce	Work closely with the project team to ensure that the proposed site layout plan and scheme details are financially viable, amending the proposed mix/elevational treatments etc, to ensure a deliverable scheme. Should future market conditions prohibit the delivery of the proposed scheme,		Alison Salter and Dominic Stead	

	unviable.							consider disposing of the site to a third party with the benefit of planning consent.			
7	If the playing fields have a history of being used by the community for recreational purposes, an application for registration of the property as a Town or Village Green may be submitted, which could sterilise the site and deem it undevelopable	Dominic Stead/Alison Salter	January 2020	5	1	5	Closed	GCC has confirmed that the site hasn't been used by the public for at least 10 years which is the time limitation to apply for Town or Village Green status. Confirmation that this won't apply will be incorporated into the Heads of Terms to be agreed with GCC in due course		Alison Salter and Dominic Stead	