

**Cheltenham Borough Council
Cabinet – 7th July 2020**

Housing Revenue Account – Acquisition of 320 Swindon Road 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 Pauls
Key Decision	Yes
Executive summary	<p>Cabinet is asked to approve the acquisition of the site at 320 Swindon Road which will provide between 21 – 28 affordable dwellings, within the parameters outlined at Appendix 2.</p> <p>Development of the site by Cheltenham Borough Council (CBC) and Cheltenham Borough Homes (CBH) will assist in providing much needed affordable homes to help reduce the housing waiting list, and also improve the wider area through regenerating a derelict site.</p> <p>CBH's independent Red Book Valuation (via JLL) supports the acquisition value for the site based on a wholly affordable scheme.</p> <p>Full Council, at its meeting in February 2019, and in the Treasury Statement October 2019, approved sufficient budget to finance development within the HRA including the acquisition of land. The site will be acquired as unencumbered freehold land and conditional upon securing satisfactory and implementable planning permission. Heads of Terms have been agreed which includes the requirement to conditionally exchange on the site by 30th September 2020.</p>
Recommendations	<p>Cabinet is recommended to:-</p> <ol style="list-style-type: none"> 1. approve the acquisition of the site at 320 Swindon Road on a conditional basis on the terms referenced at paragraphs 1 -5 within Appendix 2. 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 (HE) 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
 - c. approve the disposal of the units on a shared ownership basis, at an initial equity share appropriate to prospective purchasers.
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. entering into any legal documents for and associated with the purchase of the site and disposal of constructed units on a shared ownership basis; and
 - b. entering into legal agreements and contracts (other than those referred to in paragraph 7(a) which do not exceed £100,000 or other documentation as may be required to implement or facilitate the development

Financial implications	As set out paragraph 5 of Appendix 2. Contact officer: Paul Jones, Executive Director- Finance and Assets Paul.Jones@cheltenham.gov.uk 01242 265154
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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 landowner.</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 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 on the appropriate legal documentation (prepared or approved) by One Legal must be completed.</p> <p>Please note that the risk register identifies specific legal risks relating to planning permission.</p> <p>Stamp Duty Land Tax will be payable on completion of the purchase. As this date is so far in the future, it is impossible to say with certainty what the figure will be</p> <p>Contact officer: One Legal legalservices@teWKesbury.gov.uk</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 minimising the carbon footprint, thereby seeking to support the Council's aim to be carbon neutral by 2030.</p>

Property/Asset Implications	<p>A robust asset acquisition process and procedures framework will need to be in place and executed to ensure that the project runs smoothly. Budgeting of costs for the acquisition of the site, have been established and are within 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 320 Swindon Road site which has 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>
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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 the site at 320 Swindon Road.
- 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 5 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** 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 New Homes and Regeneration 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** The site at 320 Swindon Road is derelict and represents an unattractive environment. The redevelopment of the site will enhance the St Paul's Ward, delivering much needed affordable homes in an area where there is existing CBC stock. Discussions have been held with Homes England (HE) who are supportive of the proposal to provide a wholly affordable scheme. A formal bid submission will be made in due course.

2. Site and Negotiation Details

- 2.1** The site is accessed off Swindon Road and bordered by both Richards Road and Malvern Street. On site is a dilapidated two-storey dwelling house with a lean-to workshop and a number of outbuildings which have been derelict for circa 15+ years. The site is walled and fenced to the boundaries and covers 0.63 Acres (0.25 Hectares). The land is privately owned and lies outside of the greenbelt as defined in the Joint Core Strategy.
- 2.2** CBH has been aware of the opportunity for several years but has not been able to achieve the land price expectations of the vendor. In April 2020, the site was actively marketed by Bruton Knowles Property Consultants on behalf of the vendor.

An offer has been made and accepted (subject to Cabinet approval and subject to contract) and Heads of Terms have been agreed as set out in the exempt appendix 3.

- 2.3** CBH's independent Red Book Valuation (via JLL) supports the acquisition value for a 21-unit scheme on the site, based on a wholly affordable scheme.
- 2.4** The site does not have the benefit of planning consent; however, CBH has received positive feedback from planners from initial discussions. There is no objection to the principle of residential development of the site given that is the prevailing character of the area and the need for housing, especially affordable housing, in the Borough. There are further discussions to be had around density, mix of houses/flats, landscaping and parking. Through discussions with CBC Head of Planning based on the proposed feasibility, should CBC acquire the site, CBH is confident that planning would be achieved on the site for a minimum of 21 units, or indeed a higher density scheme if supported by planners.
- 2.5** Due diligence will need to be undertaken with regards to surveys, reports and internal approvals within 14 weeks of the heads of terms being agreed and conditional exchange to take place by September 2020. CBH expects to receive planning permission by September 2021, at which point the contract will become unconditional with the acquisition of the site to proceed thereafter.
- 2.6** CBH have raised the impact of COVID-19 with the agent, noting that it may delay the ability to undertake key surveys and reports. CBH have agreed to use its best endeavours to meet the envisaged timetable and this is noted in the Heads of Terms.

3. Reasons for recommendation

- 3.1** CBH's independent Red Book Valuation (via JLL) supports the acquisition value for a 21 unit scheme
- 3.2** One of the 3 key priorities in CBC's approved HRA business plan is to build new affordable homes in the Cheltenham area. Increasing the supply of housing is also a key priority within the council's corporate strategy, also reflected in CBC's Housing and Homelessness Strategy. This development proposal is therefore important in meeting these priorities.
- 3.1** The benefits of proceeding with this development 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 21+ 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;
 - unlock the opportunity to regenerate a derelict site that sits within existing CBC stock; and
 - strengthening the HRA through a positive return on investment over 40 years.
- 3.2** The new supply aspirations to provide circa 500 new affordable homes over the next 5 years forms a key strand of CBC's COVID-19 'recovery' strategy. Redeveloping this site will contribute towards boosting the local economy, further strengthen the HRA and provide the Council with income generated from New Homes Bonus.

3.3 If the site were conditionally acquired within the next three months, it is anticipated that the following 12 months would involve procuring a project team, the submission and agreement of planning permission and procurement of a main contractor. It is anticipated that delivery of the development would then be achieved over the following 2 years.

4. Alternative options considered

4.1 As the site has been tendered competitively on the open market, CBH's offer had to remain in line with the market value of the land and based on a feasibility that is likely to achieve planning, therefore alternative options are limited.

4.2 A number of initial feasibility sketches were collated to determine the density for the scheme, which produced a range of between 20-28 dwellings on the site. These density levels were stress tested to ascertain the land value that we are comfortable to support and which has been supported by an independent valuation.

4.3 The scheme, as proposed, creates a starting point for the amount of affordable housing the site could accommodate and provides a good mix of accommodation and of tenure types leading to a sustainable community. Further discussions with planners will result in a final scheme, in terms of both density and dwelling type mix.

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 planning application, the proposed scheme details will be discussed with local residents and stakeholders. 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 SHDG and the CBC/CBH OWG. The Property and Development Teams at CBC and CBH will work closely to manage the acquisition and subsequent redevelopment of the site.

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.

Report author	Contact officer: Alison Salter, CBH Head of Development Alison.Salter@cbh.org 01242 387512 Dominic Stead, CBC Head of Property and Asset Management Dominic.Stead@cheltenham.gov.uk 01242 264151
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Financial appendix (exempt) 3. Heads of Terms (exempt)
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 the timetable noted in the agreed Heads of Terms is not adhered to, there is the risk that the vendor will remarket the site and proceed with another partner.	Alison Salter/Dominic Stead	June 2020	4	2	8	Accept and reduce	<p>Ensure legals are instructed ASAP and the required due diligence work is progressed in a timely manner.</p> <p>Impact of COVID-19 may also limit our ability to progress with key surveys as required (staff furloughed/ unable to adhere to social distancing at work). Include in the Heads of Terms a clause stating CBH will use best endeavours to meet the timetable but that COVID-19 may limit our ability to do so.</p>	As noted in the agreed Heads of Terms with the inclusion of a caveat relating to impacts of COVID-19	Alison Salter and Dominic Stead	
2	If significant site abnormalities are identified this may lead to higher build costs and undermine the	Dominic Stead/Alison Salter	June 2020	4	2	8	Reduce	Commission site investigation and procure project team to have detailed cost plan reflecting the site	October 2020	Alison Salter	

	viability of the scheme.							investigation. In the HOT it is noted that an allowance has been made for 'reasonable' abnormals and should any significant deleterious material be found in the ground, negotiations would commence with the agent to review the acquisition price.			
3	If planning consent is not secured for a minimum of 21 units, this may make the scheme unviable to proceed.	Dominic Stead/Alison Salter	June 2020	5	1	5	Accept and Reduce	The acquisition of the site is dependent upon securing satisfactory planning consent for a minimum of 21 dwellings. If consent is not secured, CBC will not acquire the site. To reduce the likelihood of not securing planning consent, work with planning colleagues to review the proposals and submit formal pre-application planning			

								application to ensure proposed scheme is acceptable in planning terms.			
4	If Homes England funding is not secured then alternative funding sources will need to be identified and built into the financial appraisal	Paul Jones	June 2020	5	1	5	Reduce	Continue dialogue with Homes England to have certainty that funding will be secured. Submit a bid for funding as soon as the scheme is a firm scheme and the timetable is known with a degree of certainty.		Alison Salter (CBH) Martin Stacy (CBC)	
5	If market conditions change (as a result of COVID-19 or any other external factor), a contractor partner may not be identified. If there is a short to medium term impact on the costs and availability of materials and supplies as a result of COVID-19, this may increase build costs which will	Alison Salter/Dominic Stead	June 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, consider disposing of the site to a third		Alison Salter and Dominic Stead	

	have a resultant impact on the viability of the scheme.							party with the benefit of planning consent.			
6	If there is a downturn in the market in the medium term as a result of COVID-19, this may impact our ability to sell properties on a shared ownership basis	Matthew Ward (CBH)	June 2020	3	4	12	Accept and reduce	Keep abreast of market conditions, ensure ongoing dialogue with the RICS registered valuer to ensure the anticipated sales values are achievable and the right property mix is provided on the site. If shared ownership is not deemed to be the best route, look at converting the tenure to a rented product.	Ongoing	Matthew Ward	
7	If the contract is not entered into by 30 September 2020, or if the Council withdraws from the contract as a result of satisfactory planning permission not being received, CBC will have certain liabilities	Alison Salter/Dominic Stead	June 2020	1	1	1	Accept and reduce	Deal promptly with draft documents to ensure exchange and thereafter diligently proceed with the planning application	30 September 2020 and thereafter ongoing	Alison Salter /Dominic Stead	

	(as set out in the appendix 2)											
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