

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

4538

Author:

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Department:

Growth and City Development

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Subject:

Residential development of the Padstow and Ridgeway sites in Bestwood

Total Value:

See exempt appendix. (Type: Capital)

Decision Being Taken:

To reallocate capital funding within the approved Housing Revenue Account (HRA) capital programme in order to increase the sum for the purchase of new Council housing as part of the Padstow and Ridgeway residential development.

Reasons for the Decision(s)

The construction industry has experienced exceptional cost inflation over the last 12 months leading to unexpected price rises across a range of developments. This has had a significant impact on schemes such as the Padstow and Ridgeway development that were not yet in contract when prices began to rise.

Padstow Ridgeway is a mixed development of c.350 units including 108 new Council homes to be built by the developer and purchased by the Council on completion for a fixed price. The private housing will be built on land to be purchased from the Council. The Council housing will be built on land to be retained by the Council.

The current fixed price for the new Council homes was approved prior to the start of the competitive procurement process to select a developer in late 2019. There has been an exceptional rise in the build cost inflation rate since the appointed developer submitted its final tender, including its viability appraisal, at the conclusion of the procurement process in late spring 2021. This is verified by the industry standard Tender Price Indices (TPI) provided by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors. As a result it is no longer viable for the developer to deliver these units at the current price. The developer has requested an increase to the price. This is considered to be justified, since it is supported by evidence consistent with information from the BCIS, and continues to provide value for money, since the increase is lower than the current build cost inflation rate, and the revised unit costs remain competitive.

This increase can be funded by reallocating funding within the current approved HRA capital programme. This approach was agreed by the Capital Programme Board on 17/1/22.

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Other Options Considered:

Do nothing. This option was rejected because of the risk that the developer would withdraw from a scheme that had become unviable unless the fixed price for the new Council homes were increased. In that event, given the importance of developing these sites in order to achieve the corporate target for delivery of social housing, the Council would either have to undertake another lengthy procurement process, in the expectation that new tendered prices would be higher than the current amended price, as build costs are forecast to continue rising, or to seek to deliver new housing on the sites via a direct sale, which would reduce the Council's control over delivery and quality, as well as reducing the amount of social housing within the development. The option to develop the whole site for new Council housing is ruled out by the Council's current debt management strategy.

Negotiate a reduction in the capital receipt for the land equivalent to the requested increase in the fixed price for the new Council housing. This option was rejected as it would require renegotiation of the development agreement between the developer and the Council, currently being finalised, to introduce a new variable, alongside those previously agreed, against which the price could be adjusted. This would expose the Council to the risk of further reductions of the price should there be any significant delay in the contact becoming unconditional.

Utilise the contingency in the approved allocation to cover the increase in cost. This was rejected as the contingency is likely to be needed to cover the anticipated uplift in the value of the General Fund land which will be appropriated to the HRA at market value to enable the new Council housing to be developed.

Background Papers:

None.

Published Works:

Executive Board 17/9/19 report: Residential Development of the Padstow and Ridgeway sites, Bestwood
Leader's Key Decision 3668 (4/10/19): Additional Affordable Housing at Padstow, Bestwood

Affected Wards:

Bestwood

Colleague / Councillor Interests:

None.

Any Information Exempt from publication:

Yes

Exempt Information:

Description of what is exempt:

The exempt appendices contain financial information relating to the value of the contract for the new Council housing and the value of the land sale to the developer at Padstow and Ridgeway. They also contain financial information relating to other contracts for new Council housing.

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The public interest in maintaining the exemption outweighs the public interest in disclosing the information because it would reveal financial details relating to the cost of new Council housing and the value of the land to be sold which would prejudice future commercial negotiations.

Documents exempt from publication:

220222 - Padstow Exempt Finance Appendix.docx, PadstowCapital Board January2022 final version.doc

Consultations:

Date: 18/02/2022
Ward Councillors: Georgia Power, Jay Hayes, Audra Wynter
Bestwood ward Councillors have been consulted.

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

None.

Equality:

EIA not required. Reasons: This decision does not propose any changes to policies or services. The new Council housing will be let in accordance with the Council's Letting Policy which has been subject to a full EIA.

Social Value Considerations:

n/a

Relates to Council Property Assets:

Yes

Decision Type:	Portfolio Holder
Subject to Call In:	Yes
Call In Expiry date:	07/03/2022
Advice Sought:	Legal, Finance, Procurement, Property
Legal Advice:	<p>This paper is requesting the re-allocation of budgets from one project to another in order to assist with the additional development costs arising due to increased construction and materials costs. It is recognised and accepted that certainly over the last 12 months there has been a noticeable increase on materials used in construction projects and therefore this can be acknowledged as having a genuine impact on the delivery of projects.</p> <p>The potential procurement implications arising from agreeing to an increase in the contract value to the awarded developer, have been considered by the external lawyers advising on the procurement and contracting arrangements for this project. Based on the information they have been provided with from officers, they are content that the change in value would be a permitted modification under the Public Contracts Regulations 2015 and therefore there are considered to be no significant legal concerns arising in this regard.</p> <p>As the proposed decision appears to involve HRA funding allocated to these projects then the funding must only be used for permitted activities which are predominantly with regard to the Council's statutory duty for the provision of housing accommodation and related activities with the primary basis being to benefit the Council's own tenants.</p> <p>Advice provided by Naomi Vass (Senior Solicitor) on 23/02/2022.</p>
Finance Advice:	<p>This advice is exempt from publication and is contained within an exempt appendix.</p> <p>Advice provided by Tom Straw (Senior Accountant - Capital Programmes) on 23/02/2022.</p>
Property Advice:	<p>This DDM seeks to approve the reallocation of funding to secure the deliver of Council housing. The disposal of the site, in terms of a property transaction, remains unaffected and the disposal remains a sale at best consideration as it followed a competitive dialogue tender procedure. Advice provided by Beverley Gouveia (Estates Surveyor) on 22/02/2022.</p>
Procurement Advice:	<p>In as far as the this DDM seeks solely to reallocate funding, there are no direct procurement concerns with the decision being sought. The scheme to which this decision relates saw a developer appointed subsequent to a successful competitive dialogue tender procedure carried out in accordance with the Public Contracts Regulations 2015 and the Council's Contract Procedure Rules, and it is considered that the value of the amendment would be considered a permitted modification as an insubstantial change under Regulation 72(5). Advice provided by Jonathan Whitmarsh (Lead Procurement Officer) on 21/02/2022.</p>

Signatures

Linda Woodings as Portfolio Holder (PH Housing, Planning and Heritage)
SIGNED and Dated: 28/02/2022
Sajeeda Rose (Corporate Director of Growth & City Development)
SIGNED and Dated: 28/02/2022