

EXECUTIVE BOARD – 17th September 2019

Subject:	Residential development of the Padstow and Ridgeway sites, Bestwood
Corporate Director(s)/Director(s):	Chris Henning, Corporate Director for Development and Growth
Portfolio Holder(s):	Councillor David Mellen, Portfolio Holder for Regeneration, Safety and Communications Councillor Linda Woodings, Portfolio Holder for Planning and Housing
Report author and contact details:	Fran Cropper, Regeneration Team Leader 0115 8763956 fran.cropper@nottinghamcity.gov.uk
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Criteria for Key Decision:	
(a)	<input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
and/or	
(b)	Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Type of expenditure:	<input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Capital
Total value of the decision:	See exempt appendix.
Wards affected:	Bestwood
Date of consultation with Portfolio Holder(s):	20 th August 2019
Relevant Council Plan Key Theme:	
Strategic Regeneration and Development	<input checked="" type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	<input checked="" type="checkbox"/>
Community Services	<input type="checkbox"/>
Energy, Sustainability and Customer	<input type="checkbox"/>
Jobs, Growth and Transport	<input checked="" type="checkbox"/>
Adults, Health and Community Sector	<input type="checkbox"/>
Children, Early Intervention and Early Years	<input type="checkbox"/>
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>The former Padstow main school site (Local Plan reference PA8) and the former Padstow detached playing field site at Ridgeway (Local Plan reference PA5) have been designated for residential development in the emerging Local Plan. The Council's preferred option is to procure a developer to deliver a mixture of market sale and affordable housing across both sites. It is anticipated that approximately 350 new homes will be built, including 93 new Council houses. The land for the market sale housing will be sold to the developer, and the Council will retain the ownership of the land for the new Council houses, which will be built under licence by the developer. This report seeks approval to begin the development process.</p>	
Exempt information:	
<p>Appendix 1 contains commercially sensitive information relating to contract negotiation, which is exempt from publication under paragraph 3 of Schedule 12A of the Local Government Act 1972. The exempt appendix contains information relating to the business affairs of the Council. The public interest in maintaining the exemption outweighs the public interest in disclosing the information, as it would prejudice contract negotiations throughout the procurement process.</p>	

Recommendation(s):	
1.	To appropriate the land under S122 of the Local Government Act 1972 for Planning (Development) purposes in advance of the proposed sale and/or development of the sites for housing development.
2.	To declare the former Henry Whipple annex surplus, and to include it within the Padstow development site, and for the holding department to remain responsible for all the revenue costs of holding the building until the property is sold including, but not limited to, security costs, utilities, business rates and maintenance costs.
3.	To commence the procurement process to select a developer partner to acquire a proportion of the Padstow and Ridgeway sites for private residential development, and to build new Council housing under licence on the remainder.
4.	To approve the current estimated project costs as set in the Exempt appendix.
5.	To transfer the land for the new private housing to the successful developer at a price to be determined through the procurement process.
6.	To engage external legal support to assist with preparation of the development agreement, transfer deeds and ancillary contract documentation, and to support the procurement process and the subsequent conveyancing work.
7.	To approve the provision of a budget to cover the cost of external legal support through the General Fund, which will be reimbursed through the capital receipt for the land, in line with the projected costs set out in the exempt appendix.
8.	To amend the Housing Revenue Account capital programme to cover the development of 93 new affordable housing units, to be built by the developer, owned by Nottingham City Council (NCC), and managed by Nottingham City Homes (NCH), in line with the projected costs set out in the exempt appendix.
9.	To delegate authority to the Corporate Director for Development and Growth, in consultation with the Leader of the Council/Portfolio Holder for Regeneration, Safety and Communications, to approve the final terms and conditions of the development agreement and the disposal for both sites, and to award the contract following completion of the procurement process.
10.	To delegate authority to the Director of Strategic Assets and Property to approve any additional actions and expenditure which will maximise the value of the sites.
11.	To transfer the land on which the Housing Revenue Account properties will be built from the General Fund to the HRA, on terms to be agreed by the Director of Strategic Assets and Property.

1 REASONS FOR RECOMMENDATIONS

- 1.1 This proposal supports the City Council's housing strategy, Quality Homes for All (2018-2021) in providing quality homes with diversity of tenure.

- 1.2 The emerging Local Plan and the current Local Plan support residential development of predominantly family housing on these sites (PA8 and PA5).
- 1.3 The appropriation of the land under Section 122 of the Local Government Act 1972 has begun. This changes the land use out of Education, and changes it for Planning purposes as a future housing development site. The process of appropriation removes the third party remedy of seeking an injunction, e.g. to prevent the stopping up of public rights of way and other third party rights, which would delay development. However, an affected party could still seek financial compensation, the liability for which may fall to the Council if any potential purchaser were unable, at the time of the claim, to meet the liability, for example if the developer went into administration prior to settling the claim.
- 1.4 The development principles devised for guidance (see appendix 2) show the type of design quality and housing mix which the Council would require the successful developer to deliver in order to meet its aspirations for the sites. These will help to meet the demand for new market sale and affordable housing, as recognised in the Council's current housing delivery targets.
- 1.5 The proposal to procure a developer, rather than simply to transfer the ownership of the sites by market sale, is intended to give the Council greater control over the programme/phasing of new build, and the quantity, quality (specifications), ownership and delivery of new affordable housing. The latter will be a greater proportion of the total than would be required as a standard affordable housing contribution through a S106 agreement. The cost of the affordable housing units will be agreed with the developer as part of the procurement process, and is set out in the exempt appendix.
- 1.6 The competitive negotiated procurement process will give the Council a much greater degree of control but requires a commensurate commitment of resources, in the form of officer time, which is not currently available within Legal Services. Therefore external resources will be appointed to provide the necessary support. This will be funded from existing General Fund resources, and subsequently reimbursed from the capital receipt for the land, as set out in the exempt appendix.
- 1.7 The new Council housing element of the development will contribute to the spending of Right to Buy (RTB) replacement funding within the time limit, which might otherwise have to be returned to Central Government with interest. The RTB replacement funds can be used to fund up to 30% of new Affordable Housing Delivery. The HRA capital programme will be amended to include the proposed affordable housing, showing the capital costs, borrowing requirement and payback period associated with the new affordable housing to be developed on these sites. The intention is for the affordable housing to be built under licence by the developer on land which will remain in Council ownership, so avoiding unnecessary land tax costs. The land for the affordable housing will be appropriated from General Fund to the HRA at the market value. This project cost is not eligible for RTB replacement funding.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 The emerging Local Plan and the current Local Plan support residential development of predominantly family housing on these sites (PA8 and PA5).

- 2.2 The Council's current targets for delivery of social/affordable housing, and for housing of all types, indicate the importance of delivering new housing on these sites.
- 2.3 The main Padstow site is one of the most prominent development sites in the city, by virtue of its size and location. It is important that the quality of new development here reflects this. In addition to preparing appropriate design guidance, the preferred procurement method will enable the Council to control this aspect of the development.
- 2.4 The two sites covered by this report sit either side of a third development site at Beckhampton Road (Local Plan reference PA6) (see plan at appendix 3). The current intention is for the whole of this site to be developed for new Council housing by NCH for approximately 100 new units. The quantity of new housing to be delivered across these three neighbouring sites underlines the need to maintain high quality standards to ensure a positive environmental impact on the neighbourhood. This will be ensured on the Beckhampton Road site via the Council's partnership with NCH, which will act as the development agent.
- 2.5 Consultation with local residents was undertaken in summer 2017 and November 2018, and significant amendments to the proposed layouts have been made on the basis of the views expressed by local people.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Do nothing. This was rejected as the sites have been identified for residential development within the Local Plan, and development will contribute to meeting the Council's housing delivery targets, as well as providing much needed new social homes for rent.
- 3.2 Market sale. This option was rejected because it would not provide the Council with the necessary degree of control over the quality and delivery of the new housing, and would result in fewer affordable housing units.
- 3.3 Development of Council housing on the whole of both sites. This option was rejected because the sites are situated in an area with a relatively high level of Council housing, giving an opportunity to increase the mix of tenures in the area, and allow for an appropriate mix and balance of housing options. When considered in the context of surrounding new developments, it was considered that the proposed option provided the best mix and balance of tenure choice for local people.

4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

- 4.1 See exempt appendix.

Thomas Straw (Senior Accountant Capital Programmes) 23rd August 2019

5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

- 5.1 The City Council is obliged to carry out a procurement to appoint a developer for this site because of the City Council's requirement for the developer to build new

affordable homes. The value of those building works is in excess of the applicable financial threshold in the Public Contracts Regulations 2015. For this development the City Council is proposing to use a procurement process which includes the opportunity for negotiation with the bidders. This process will ensure the City Council is able to discuss with bidders the details of the transaction including phasing of the development and will enable the City Council to secure the best deal.

- 5.2 This report includes at recommendation 6 approval to appoint external legal advisers to support the City Council through the tender procedure. External support is required because of the complexity of the transaction and the likely significant resource demand on the legal services team throughout the procurement process and potentially and ultimately up to exchange of contracts of the development agreement.
- 5.3 The external advice will include assistance with the preparation, and structure of, the development agreement (which will be a lengthy and complex agreement which has many conditions and will see the land developed and transferred in phases) and other legal documentation to complete the transaction, including forms of transfer deeds for the phased sales of the site, a revenue based overage deed and, if necessary, the construction contract together with documentation for the professional team and warranties and guarantees for the affordable housing built for the City Council. The legal documentation will be extensive and complex and is to be prepared substantively in draft form at the outset, as part of the procurement process for the selection of a preferred developer.
- 5.4 The City Council's finance advisors should liaise with the external advisors to take into consideration tax implications and tax advice for this scheme to feed into the legal documentation if and when necessary.
- 5.5 The Legal Services team will work closely with officers from the Development team to manage and control the costs of the external legal advisers. The Legal Services team will also work with the external advisers to ensure knowledge transfers to our external advisers for the benefit of the City Council wherever possible and to ensure the development proceeds as smoothly as possible.

Andrew James, Team Leader, Commercial, Employment and Education
Mick Suggett, Team Leader, Conveyancing, 22 August 2019.

- 5.6 The Competitive Procedure with Negotiation, or alternative negotiation procedure, is an appropriate route to engage the market for a project of this nature, and is more likely to secure the best outcomes for the Council than one of the non-negotiated routes. The procedure will be managed by the Procurement Team to ensure compliance with Contract Procedure Rules, Public Contracts Regulations, and other applicable Council policies and national legislation.

Jonathan Whitmarsh, Lead Procurement Officer, Procurement & Contracting,
22 August 2019.

6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)

- 6.1 Property have placed formal notice of the Council's intention to appropriate for Planning (development) purposes in the Local Press for two consecutive weeks as required by sect 122 of the Local Government Act 1972. Any objections received will be reported to Executive Board so these may be taken in to account when making the decision to Appropriate.

The proposed disposal of the site by way of procurement will give the Council greater control over the phasing and quality of the development, however requirements could impact upon the capital receipt received for the sites when compared to the receipt that could be received if the sites were sold in the open market without restriction.

Rod Martin, Development Manager- Strategic Assets and Property, 20 August 2019.

- 6.2 The Henry Whipple Annex building or MALT NORTH has not been used as a school for over ten years. It was partially refurbished in 2009/10 to provide office accommodation for what was then a Multi-disciplinary team. It sits within the Children's portfolio and is due to be vacated at the end of September 2019 and declared surplus to operational requirements.

Discussions with Nick Lee (Director of Education) have concluded that there are no plans to expand the current Henry Whipple provision and there is no other educational use for the building.

Strategic Assets and Property and Education would like to see the building demolished as soon as possible to reduce the risk of vandalism on site which could impact on the adjoining school building. It would be sensible to ensure that external demolition works where the building adjoins the school would be completed during school holidays.

Advice from Deborah Millar, Business Partner, Strategic Assets and Property, 21 August, 2019.

7 SOCIAL VALUE CONSIDERATIONS

- 7.1 The proposed development will contribute to meeting the need for diverse new housing, including new affordable housing, within the city. The construction of the new housing has the potential to benefit the local economy by providing opportunities for local employment and local businesses, which may be engaged in the developer's supply chain; the procurement process will require prospective development partners to demonstrate how they would maximise these benefits.

8 REGARD TO THE NHS CONSTITUTION

- 8.1 N/A

9 EQUALITY IMPACT ASSESSMENT (EIA)

- 9.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because:

The approval does not contain proposals for new or changing policies, services or functions.

Yes

Attached as Appendix x, and due regard will be given to any implications identified in it.

10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)

10.1 N/A

11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

11.1 N/A