

CABINET MEETING: 11 JUNE 2020

**RESPONSE TO THE IMPACT OF COVID-19 ON CARDIFF
COUNCIL'S HOUSING DELIVERY PROGRAMME**

**CABINET PORTFOLIO: HOUSING AND COMMUNITIES
(COUNCILLOR LYNDA THORNE)**

AGENDA ITEM: 3

Appendix 1 is not for publication as it contains exempt information of the description contained in paragraphs 14 and 21 of Schedule 12A of the Local Government Act 1972

Reason for this Report

1. To consider the impact of Covid-19 on the Councils housing delivery programme.
2. To recommend approval in principle of a specific request from Wates Residential – our Cardiff Living Development partner- in relation to the immediate purchase of a number of additional properties currently in development as part of our phase 1 Cardiff Living programme.
3. To note the approach currently being considered to take forward the Council's additional housing development sites across the city in light of the emerging housing market conditions.

Background

4. The Council has a target of delivering 1,000 new council homes by 2022 with an additional 1,000 homes in the medium term. A number of delivery routes have been implemented to achieve this objective including the establishment of the Cardiff Living Programme, the purchase of homes directly from the open market, innovative meanwhile use of Council land and the development of an additional build programme outside of Cardiff Living.
5. Good progress had been made to achieve the target of 1,000 new homes by 2022 with 354 completions to date.
6. Our development programme has achieved a number of national awards including;

- Winner of the 'Best affordable housing scheme' for Silvertale in the **What House 2019 (UK) awards**
 - Winner of the 'Integration & Collaborative working' award in the **Constructing Excellence Wales 2019 awards** for Cardiff Living.
 - Winner of the **2020 RICS Social Impact awards** for Silvertale.
 - Shortlisted for the 2019 **CIH** annual award for the best large development (Silvertale), being highly commended
7. A significant number of Developments within the Cardiff Living and the additional development programmes were in progress and on site in March 2020 with further sites in the formal planning approval process.
 8. Planning permission for our new older person Community living schemes at Maelfa and St. Mellons had just been granted prior to the Covid-19 pandemic.
 9. In preparation for a significant extension of activity into additional sites outside of the Cardiff Living programme the Council completed the acquisition of the Gasworks site off Ferry Road recently.

Immediate Impact of the Covid 19 pandemic on the Housing Delivery Programme.

10. The national pandemic of Covid-19 has had a direct impact on housing developers, subcontractors and suppliers across the UK. Many businesses took an early decision to furlough staff and cease work altogether. Others continued to work but with new operating conditions that complied with the Covid-19 regulations.
11. In terms of Cardiff Councils development programme:
 - The open market buy-backs programme affectively stopped once the national Lockdown was implemented and the crisis is still affecting our ability to complete purchases that have been agreed as onward chains have stalled. We are also currently unable to view new properties or carry out valuations.
 - The Courtenay Road scheme, in our additional build programme, consisting of 30 x 1 and 2 bedroom flats was due to complete and handover before the end of April 2020. The Contractor for the development ceased all site operations shortly after the Lockdown and furloughed their staff. They have recently returned to site and the scheme will now complete in July 2020.
 - Wates Residential ceased operations across the Cardiff Living sites for 48 hours whilst safe working measures were implemented to enable construction work to continue, albeit not at the same pace as pre-Covid-19. Therefore whilst schemes have continued the delivery of new homes has been delayed.
 - In late March the Council were due to start on site on a development of 16 new council homes at Caldicot Road, Caerau. However, here the contractor has furloughed all staff and have not as yet recommenced operations.

- The timetable for the achievement of milestones for a wide range of pipeline schemes has been impacted due to Covid 19 related delays in planning and procurement processes.
12. The delays caused by the impact of Covid-19 to the industry and to our own development programme mean that in-year delivery targets may potentially prove challenging for 2020/21. The on-going uncertainty about the future impact of the pandemic also make predictions about the delivery of pipeline schemes more complex.

Specific issues relating to Cardiff Living & the response to Covid-19

13. The continuation of the Cardiff Living programme with Wates Residential forms an essential part of our overall new build delivery strategy.
14. Wates Residential was appointed in 2016 as the partner developer for the Cardiff Living programme. The programme will deliver 1,500 new affordable homes of which around 600 will be new council homes for social rent and 900 will be for affordable home ownership.
15. The nine year Cardiff Living Development Programme is managed through a Development Agreement and is being delivered over a number of phases. Phase 1 has ten sites, six of which have completed with four sites still operational.
16. In September 2019, in line with the Development Agreement, Wates resubmitted a proposal to roll onto phases 2 & 3 of the programme. Wates have recently confirmed that they wish to proceed as planned with Phases 2 and 3.
17. Given the length of the programme, the Development Agreement allows for circumstances where the property market may face a downturn or sites may stall. In these circumstances, the Development Agreement enables both parties (Wates & Cardiff Council) to agree an alternative site delivery approach including the council purchasing unsold market units at build costs & agreed overheads. The agreement also allows either party to suggest stalling operations for an agreed period of time.
18. Covid-19 has caused concerns about the immediate impact on the Housing market and specifically the appetite and opportunity for families and individuals to purchase new homes. In response Wates are seeking an alternative approach to the four operational sites within phase 1.
19. Wates have asked the council to consider the following:
 - **Willowbrook, St. Mellons:** the council to consider acquiring 28 x 4 bed houses that have not been reserved or sold. The site is operational and the properties well advanced. The original mix of properties was 129 market sale and 58 council. The updated mix would be 101 market sale and 86 council.

- **Briardean, North Road:** The council to consider acquiring 30 x 2 bed flats that have not yet been marketed. The scheme is on site and development is well advanced. This is in addition to the 9 council properties already being built on the site (39 properties in total).
 - **Highfields, Heath:** The council to consider acquiring 33 flats and houses (all PassivHaus compliant). Enabling works have commenced on site. The original mix was 9 council and 33 market sale. 42 properties in total.
 - **Llandudno Road, Rumney:** The council to consider changing the site to all affordable – 16 houses in total. Construction has not yet started on site.
20. The costs associated with this proposal are provided within **Appendix 1** to this report. In line with the terms set out in the Development Agreement any acquisition in these circumstances must be fair and reasonable and should be at agreed build cost with agreed overheads only.
21. This proposal is essentially to acquire an additional 102 properties for Council homes or for Council approved assisted home ownership. It would also be possible for the Council to consider sale of some units for affordable key worker housing.
22. The new properties (if acquired) are built to an open market standard and will not meet some aspects of the Welsh Government DQR standards. The differences between market sale properties and social rented do not prevent us from holding the properties within the councils housing stock as social properties.
23. The submitted development costs must be on an open-book basis and be;
- Benchmarked against the build costs of the market properties provided by Wates at the site draw-down stage,
 - Benchmarked against the submitted costs for the social housing units
 - Benchmarked against the Welsh Government Acceptable Cost Guidelines for Social Housing development.
 - And be subject to a full review by our appointed cost consultants
24. The additional cost of the properties to be purchased will be factored into the 30-year HRA business plan and the associated rental income modelled against current assumptions. It is worth noting that an amendment to current assumptions within the plan will need to be considered in any event as the assumed land sale values and profit share would need to be reduced in line with actual sale values. The detail of this impact is provided in **Appendix 1**.
25. Wates have indicated that agreement with their request would enable their operation to proceed in Cardiff with some immediate risk reduced in relation to market sales. The alternative of stalling the 4 sites is one that would result in a significant scaling down of operations for Wates in

Cardiff and also result in the existing agreed Council homes on the four sites being delayed in the short to medium term.

26. Consultation has taken place with the Planning department to ensure that the request to vary the approved mix of units on each site is acceptable. The advice is that this variation is acceptable and can be dealt with through amendments to the UU/S.106 agreement.
27. Agreement to the Wates request is sought in principle and the decision to purchase properties on each of the 4 sites will be subject to due diligence with sign off required by the Councils 151 officer in consultation with the Cabinet Member for Finance.

The new approach to delivering new affordable homes for Cardiff

28. What is clear is that our development pipeline remains hugely important for the city. As a driver for economic regeneration and in response to growing levels of acute housing need the opportunity to directly deliver volume house building could be a major part of Cardiff's recovery.
29. The additional housing sites secured by the Council for housing development will deliver 1,800 homes on top of the 600 council homes being delivered through Cardiff Living. Key sites include Waun Gron Road, Channel View, Michaelston College, Maelfa and St Mellons (older persons) and the Gasworks site.
30. Furthermore, the council has the opportunity to consider varying its approach to house building in the future. The experience of our development programme to date shows how volatility can impact negatively both for developers and the Council particularly in long term arrangements. The need for flexibility going forward to take into account changing conditions could see a move to genuinely tenure neutral developments where homes are built by the Council and then either sold at market levels, for low cost home ownership, socially rented or rented at market rates dependent on a range of economic and social factors.
31. To achieve this the Council would need to seek Contracting partnerships in the future rather than Developer partnerships, taking the opportunity to deliver property directly for sale or rent as appropriate. This approach would require the council to take a developers risk but would also ensure the reinvestment of all profits back into the development programme. The approach would potentially enable the council to provide cross tenure high quality, energy efficient and truly affordable homes to meet a wide range of housing need across Cardiff.
32. Considering these opportunities to deliver properties for private sale or private rent would ensure that the major development sites continued to provide for mixed communities and may offer the council the potential for a more diverse housing based income stream. This approach would require significant further consideration and will be examined in detail as part of the proposed way forward for the delivery of the Channel View development in September.

Local Member consultation (where appropriate)

33. Local members have been written to informing them about the proposed amendment to the tenure mix on the 4 sites in question.

Reason for Recommendations

34. To prevent our current Cardiff Living sites from stalling, removing the risk of market sale properties remaining unsold ensuring the Cardiff Living programme continues to deliver new affordable homes mitigating against the short-term impact that Covid-19 will have on our development programme.
35. To reduce the potential impact that Covid-19 can have on the local economy, ensuring our sites can still operate, protecting local jobs, suppliers and subcontractors. Ensuring that the council is still delivering much needed affordable housing for local communities.
36. To limit the impact that Covid-19 could have on our delivery programme and on our ability to meet the new build targets set out in Capital Ambition.

Financial Implications

37. The additional costs outlined in the report can be managed within the existing HRA Capital Programme approved by Council in February 2020, by limiting further Private Market Property Buybacks, to any unallocated budget for this budget heading and in particular where commitments have been entered into and any price agreed continues to represent market value by an independent valuer. A sum of £22.5 million was assumed for this method of increasing the numbers of dwellings in the HRA over a five year period and would need to be re-prioritised to acquire these units from Wates. Any reduction in return of land value will also need to be managed within this budget. In respect to the Cardiff Living scheme it is important that this does not set a precedent for future phases as no allowance is included in the budget framework for this and there could be adverse state aid implications.
38. The recommendation sets out the need for matters to be concluded with the agreement of the S151 Officer (Corporate Director Resources). The areas to be considered will be that whilst the funding source is identified that the business plan is sustainable and can both demonstrate Value For Money and an evidenced view of the market opportunity as described in the body of the report.
39. The impact of COVID 19 on other new build schemes in terms of impact on costs, timescales affordability of borrowing and revenue budget implications will need to be considered in the future periodic updates to key documents in respect to the HRA which include the annual budget as well as the 30 year business plan update.

Legal Implications

40. Further to a competitive dialogues process, the Council entered into a development agreement (“the Agreement”) with Wates construction Limited (25.1.16) for the development of social and private housing on number of sites owned by the Council. This arrangement was akin to a public concession contract. The Agreement, put succinctly, contained provision for draw down of sites under phases, under build (construction) licences.
41. The Agreement contains a number of provisions, which in particular, allow for:
 - the parties to agree courses of action in the event of times of Market Slow Down (as defined in the Agreement); and
 - an option during the Election Period (As defined by the Agreement) for the Council to acquire unsold market housing on payment of a sum to calculated in accordance with the Agreement.
42. Before proceeding with the proposed purchase of the unsold market houses, it will be necessary to carry out detailed due diligence to ensure that matters can be achieved within legal and financial constraints, including;
 - any decision as regards the overall payment sum must take in account the general obligation upon the Council to obtain value for money and detailed valuation advice will be required,
 - being satisfied that the proposed arrangement does not raise any state aid or procurement law issues .

Equalities Impact Assessment/public duties

43. The Council has to satisfy its public sector duties under the Equalities Act (including specific Welsh public sector duties) – the Public Sector Equality Duties (PSED). These duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of ‘protected characteristics’. The ‘Protected characteristics’ are: • Age • Gender reassignment • Sex • Race – including ethnic or national origin, colour or nationality • Disability • Pregnancy and maternity • Marriage and civil partnership • Sexual orientation • Religion or belief – including lack of belief.

Well Being of Future Generations (Wales) Act 2015 -

44. The Well-Being of Future Generations (Wales) Act 2015 (‘the Act’) places a ‘well-being duty’ on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
45. In discharging its duties under the Act, the Council has set and published wellbeing objectives designed to maximise its contribution to achieving the national wellbeing goals. The wellbeing objectives are set out in

Cardiff's Corporate Plan. When exercising its functions, the Council is required to take all reasonable steps to meet its wellbeing objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the wellbeing objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.

46. The wellbeing duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them

The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

RECOMMENDATIONS

Cabinet is recommended to:

- 1 Approve in principle, subject to the satisfactory outcome of detailed due diligence checks by the authority, the request from Wates to acquire unsold property in phase 1 of the Cardiff Living sites as detailed in this report, as a direct response to the impact of Covid-19.
- 2 To grant delegated authority to the Corporate Director for People and Communities in consultation with the Cabinet Member for Communities and Housing following satisfactory outcome of detailed due diligence checks by the authority and formal approval by the Section 151 Officer in consultation with the Cabinet member for Finance to conclude the purchase agreement in respect of the purchase of the unsold properties as described in this report
- 3 To note the outline approach indicated in the report in respect of future housing development sites. The approach to inform specific housing development scheme reports planned for consideration later in 2020.

SENIOR RESPONSIBLE OFFICER	SARAH MCGILL Corporate Director People & Communities
	5 June 2020

The following appendix is attached:

Appendix 1 – Costs associated with acquisition of additional property (confidential).