

CABINET MEETING: 18 MARCH 2021

**ACQUISITION OF NEW BUILD HOUSING THROUGH A
PACKAGE DEAL ARRANGEMENT ON LAND AT WYNDHAM
CRESCENT, CARDIFF.**

**HOUSING AND COMMUNITIES (COUNCILLOR LYNDIA THORNE)
AGENDA ITEM: 12**

***The Appendices to this report are not for publication as they contain
exempt information of the description contained in paragraph 14 and 16 of
Part 4 and paragraph 21 of Part 5 of Schedule 12A to the Local
Government Act***

Reason for this Report

1. To approve the Council entering into a legal agreement with Ventura properties (Cardiff) Ltd for the acquisition of land comprising new flats to be built at Wyndham Crescent, Riverside for an agreed contract sum detailed in appendix 1, subject to the satisfactory completion of due diligence, financial viability and the proposed scheme achieving a planning consent

Background

2. Through Capital Ambition the Council has set a target of delivering at least 1,000 new council homes by 2022 and to have a development programme capable of delivering over 2,000 new council homes in the longer term. These targets have been set in direct response to the increasing demand we face for affordable housing in our city.
3. A Cabinet report approved in November 2020 gave an update on the development programme and detailed the delivery routes being utilised in order to meet our targets and deliver new council homes. These routes included the continuation of the Cardiff Living programme, entering into developer lead Package Deals, the development of new homes through the Additional Build programme and the purchase of property from the open market.
4. The council has been approached by a developer Ventura properties (Cardiff) Ltd to consider an acquisition of new flats once built on the former Seal & Co building site on Wyndham Crescent, Cardiff. The

scheme will deliver new flats suitable for older people that will meet a strategic housing need in an area of the city in which we have a very high demand for new council housing but scarce existing stock and extremely limited opportunities to build ourselves.

5. The site is very well located in terms of access to the city centre and to nearby amenities along Cowbridge Road. A bus stop is located directly outside of the site and a doctor's surgery adjoins the site.
6. The proposed scheme will deliver 31 x 1 bed older person apartments, all with access to private outdoor space. Indicative elevations of the proposed scheme are provided in appendix 3.
7. Pre-application planning advice has been sought by the contractor. This initial advice has led to the scheme being scaled back from the original proposal of 35 apartments. The design process is on-going and entering into an agreement to purchase the property is conditional on the developer obtaining a planning consent.
8. The properties will be designed to be fully compliant with Welsh Government's Design Quality Requirements (DQR).

Issues

9. Costs – the scheme is being offered to the Council under a 'package deal' arrangement. 'Package deals' are where a contractor takes the lead in procuring the acquisition, design and construction of a project. In such arrangements this must be an opportunity that only the developer can deliver to the council and this is the case as the developer owns the land.
10. The Council will enter into an appropriate form of agreement to purchase the development only once the total scheme costs have been independently reviewed by Chartered Quantity Surveyors on behalf of Cardiff Council and confirmed to be consistent with current build costs.
11. The current estimated costs are detailed in Appendix 1.
12. Procurement due diligence is being undertaken to ensure the council proposed acquisition is compliant with the Public Contracts Regulations (2015). External Legal advice has been sought on this and contained in Exempt Appendix [4].
13. **Conditions of the deal** – there are a number of conditions that must be discharged by the developer before the council can enter into a legal agreement. These are listed below:
 - A satisfactory planning permission being granted for a 31 unit scheme including for any Section 106 Agreement;
 - A satisfactory valuation of the proposed scheme
 - A satisfactory review of the proposed scheme costs
 - A positive financial viability assessment of the total scheme costs using the Proval viability tool.

- Formal approval of the SAB proposal for the scheme
 - Completion of due diligence of the developer to ensure ability to deliver the project
 - Satisfactory completion of the procurement due diligence as detailed in legal advice at Appendix [4]
14. The conditions relating to formal planning approval and SAB approval must be satisfied before completion of the acquisition but may not prevent an exchange of contract.
15. A viability assessment of the current indicative scheme costs has been undertaken using the ProVal viability Toolkit, with the baseline viability indicating that the scheme would achieve a payback of **41 years**, with an allocation of subsidy. The amount of subsidy required represents the same as the rate (58%) a Registered Social Landlord (RSL) would use when applying to Welsh Government for funding. The viability report is provided in appendix 2.
16. The scheme is accounted for within the current HRA Business Plan and within the current Housing development programme.

Consultation

Scrutiny Committee

17. The report has been discussed at the CASSC Committee held on 10th March 2021. A full review of the proposal and the decision was undertaken and the letter from the Chair will be circulated once received.

Local Member consultation

18. The Riverside Ward Members have been consulted and whilst not unanimously supporting the scheme, they do welcome the additional homes the scheme will provide. Concerns were raised regarding the impact of the scheme on the existing street trees and the pedestrian and cycling links through the car park.

Reason for Recommendations

19. To progress the acquisition of new council homes in order to meet the Council's aspirations of delivering 1,000 new council homes in line with housing need by March 2022.

Financial Implications

20. The report proposes the purchase of Housing units to make available for Social Housing. Funding is available in the Housing Revenue Account Capital Programme approved in March 2021 as part of the budget proposals.

21. The report appendices suggests, the development of the site will attract a subsidy in the form of grant or a planning obligation, however the specific details of this are not confirmed at the time of drafting this report.
22. In advance of entering into a legal agreement, and subject to a separate officer decision report, part of the land on which the development will take place is to be sold to the developer, which will generate a capital receipt for the Council.
23. In the event that the Council does not enter into a legal agreement with the developer to acquire the units after entering into a heads of terms agreement, the council will be required to pay abortive costs to the developer.

Legal Implications

Property

24. Section 120 of the Local Government Act 1972 enables the Council to acquire land for either (a) the benefit, improvement or development of its area or (b) for any of its functions under any enactment. The Council's Disposal and Acquisition of Land Procedure Rules requires the decision maker to have regard to advice from a qualified valuer, to ensure value for money.
25. Section 17 Housing Act 1985 enables the Council as local housing authority to acquire properties or land for housing accommodation.
26. External procurement legal advice has been obtained in connection with this proposals contained in this report and contained in Confidential Appendix [4].
27. The Cabinet needs to take account of the Council's fiduciary duties to the local residents and taxpayers. As such, proper consideration needs to be given to the risks, rewards and potential future liabilities of the proposals which are the subject of this report. The issue concerns whether the potential risks and liabilities described in the report and in Confidential Appendix 15 are proportionate to securing housing accommodation in this locality and thereby in the best interests of the local taxpayers and residents.

Equalities & Welsh Language

28. In considering this matter the decision maker must have regard to the Council's duties under the Equality Act 2010 (including specific Welsh public sector duties) . Pursuant to these legal duties Councils must, in making decisions, 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. Protected characteristics are: (a). Age, (b) Gender reassignment(c) Sex (d) Race – including ethnic or national origin, colour or nationality, (e) Disability, (f)

Pregnancy and maternity, (g) Marriage and civil partnership, (h) Sexual orientation (i) Religion or belief –including lack of belief.

29. An equalities impact assessment is attached to this report and the decision maker should have regard to the same in reaching its decision.
30. The decision maker should be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

The Well-being of Future Generations (Wales) Act 2015

31. 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. In discharging its duties under the Act, the Council has set and published well being objectives designed to maximise its contribution to achieving the national well being goals. The well being objectives are set out in Cardiff's Corporate Plan 2020 -23
32. When exercising its functions, the Council is required to take all reasonable steps to meet its well being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
33. The well being 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
34. 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 on line using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

HR Implications

35. There are no HR implications for this report.

Property Implications

36. As part of a land disposal linked to this acquisition, the Strategic Estates Department have procured an independent valuation of the proposed development which confirms the acquisition price reflects Market Value for the completed development.

RECOMMENDATIONS

Cabinet is recommended to delegate authority to the Corporate Director for People & Communities, in consultation with the Cabinet Member for Housing & Communities and Head of Estates to enter into a legal agreement (following satisfaction of the conditions highlighted in this report) with Ventura properties (Cardiff) Ltd for the acquisition of 31 new apartments on land at Wyndham Crescent, Cardiff in accordance with the Heads of Terms substantially in the form contained in at Appendix 1.

SENIOR RESPONSIBLE OFFICER	SARAH MCGILL
	12 March 2021

The following confidential appendices are attached:

Appendix 1 – Draft Heads of terms (including total scheme costs)

Appendix 2 - Proval Viability Assessment

Appendix 3 – Scheme plans & elevations

Appendix 4 – External Legal Advice