

A NEW HOUSING DEVELOPMENT PARTNERSHIP.

HOUSING AND COMMUNITIES (COUNCILLOR LYNDA THORNE)

AGENDA ITEM: 8

Appendix B to this report is not for publication as it contains exempt information of the description contained in paragraph 14 and 16 of Part 4 and paragraph 21 of Part 5 of Schedule 12A to the Local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 1972

Reason for Report

1. To approve the implementation of a second Cardiff Housing Partnership Programme including the commencement of a procurement exercise to appoint a development partner.
2. To approve the list of specific development sites to be included within the second partnership programme and a further number of units to be included within the programme to enable a defined development pipeline for the life of the partnership
3. To delegate authority to the Corporate Director for People and Communities in consultation with the Cabinet member for Housing and Communities, to manage all matters relating to the procurement process including agreeing the procurement route, agreeing the parameters and delivery model of a second partnership programme, agreeing the procurement documents, agreeing the evaluation criteria and the evaluation of the bids.
4. To note that following the conclusion of the tender process and the evaluation of the bids received, a further decision will be brought back to Cabinet to give approval to appoint the preferred bidder.

Background

5. Demand for affordable housing in Cardiff, in common with other Local authorities in Wales and across the UK, is currently acute. There are over 8,000 applicants on our combined housing waiting list and 1,400 homeless families and individuals in temporary accommodation.
6. These pressures are driven by a range of factors including an increasing lack of supply of privately rented accommodation across the city. The

issues facing Cardiff are similar to those being experienced in Cities across the UK with factors such as Local Housing Allowance (LHA) levels playing a significant part in the inaccessibility of the private rented sector for many families and individuals.

7. The Council's Money Advice Team have seen an increase of 169% (from 400 to 1,076) in the number of people making contact in relation to debt advice, in Quarter 1 compared to last year. During 2021/2022 the team supported 1,368 people who were in rent arrears, preventing them from becoming homeless. There are concerns that further increases in the cost of living will add significantly to the housing stress being felt by those struggling to balance household budgets.
8. The present situation is compounded by emerging and significant short-term pressures linked to recent global events where a significant number of those seeking sanctuary in Cardiff require short term support to meet immediate needs.
9. The Council is proud of its housing development programme that is delivering new high quality, energy efficient homes across the city to help increase the supply of affordable housing. Several delivery routes are currently in operation including:
 - Cardiff Living Partnership programme with Wates Residential
 - Additional build programme (development sites being delivered on an individual basis & independently to the Cardiff Living Programme)
 - Direct property purchase
 - Package Deals
10. The overall housing development programme is the largest council led development programme in Wales and has the capacity to deliver at least 4,000 new homes consisting of at least 2,800 new council homes and 1,200 homes for sale. The programme includes 60 confirmed sites. Of these, 26 sites are currently being delivered through Cardiff Living and the remainder of the sites are being delivered outside of the Cardiff Living partnership as individual projects.
11. Current housing pressures mean that we are being challenged to deliver new homes more quickly, be more innovative in our approach to development and be more flexible within our new build programme to enable us to adapt effectively to changing housing needs & pressures.
12. The development programme and the identified sites within it also presents an opportunity to invest in our local communities and in some cases expand our schemes to provide a range of services and facilities – investing in more than just homes and helping us to deliver services in a more efficient and cost-effective way.
13. The programme is increasingly meeting identified accommodation needs in relation to Children's Services and Adult Services including the delivery of new specialist and supported accommodation.

14. The housing development programme also delivers wider benefits to the city and to the Cardiff capital region. With an estimated value of over £950 million the programme provides significant social value and local investment including supporting local supply chains and contractors.
15. The council's first Housing Partnership, The Cardiff Living Programme, is an award-winning development partnership between Cardiff Council and Wates Residential. Wates were appointed as partner developer in 2016 following a Competitive Dialogue process. The programme will deliver around 1,500 new homes, circa 800 council homes and 700 homes for sale. The value of the programme is in the region of £320 million with a shared vision for quality and low carbon standards. Of the 26 sites held within the programme 10 have been completed with a further 5 on site.
16. Cardiff Living is recognised as an innovative development programme identified as good practice by Welsh Government. The partnership approach has reduced delivery risk and improved the speed of process taken to get projects on site. The programme has also unified the standard of the council homes and homes built for sale by adopting a 'tenure blind' approach.
17. The experience of our Housing Partnership arrangements, when compared to the more traditional delivery mechanisms employed for a number of our additional development sites has provided strong evidence of the benefits of delivering the remaining sites in our programme through a new partnership arrangement.
18. Savills have been commissioned by the Council to help set out the delivery options and structure for a second partnership. This includes:
 - Providing advice on the different procurement routes available.
 - Undertaking a viability and costing exercise for the sites identified for a second partnership.
 - To explore partnership structure options and consider the risk and reward parameters of those options. This will assist in identifying how more value could be delivered through a partnership programme
 - To advise on potential collaboration options.
 - To provide a procurement timetable to inform the management of the procurement process

Issues

19. Currently market conditions are challenging including significant material price increases, rising energy costs, shortages around the supply of labour and materials and uncertainty around borrowing and financing. It is likely that market conditions have impacted to limit the number of contractors who have bid for our projects outside of the Cardiff Living programme.
20. Experience so far of procuring schemes on an individual basis is that it is a slow and resource intensive process. Some schemes have elicited very little interest and in one procurement there were no tender returns. In

addition, the management of a large number of individual procurements is resource intensive with a significant reliance on consultants to help take a scheme through the design stages to planning, out to tender and then on to site.

21. The experience of the housing partnership has shown that once a development partner has been procured the pipeline of projects moves forward more swiftly supported by a key project team employed by the development partner. Additional benefits include:
- A better use of internal resources
 - Ability to innovate and respond swiftly to changing housing need and market conditions
 - Better certainty of delivery.
 - Better value from our land and resources
 - Shared risk and reward
 - Consistency of quality from site to site
 - A much larger programme of social value within our local communities
 - Speed of delivery

What can a Second Partnership look like?

22. The advice the Council has commissioned sets out the partnering options open to us along with suitable procurement routes. In summary the procurement options are:
- **Open** - fastest route, but no opportunity for negotiation
 - **Restricted** – useful when you have a very large number of tenderers but again, no negotiation
 - **Competitive procedure with negotiation** - all negotiation to be completed prior to final tenders
 - **Competitive Dialogue** - allows the proposals to be refined during dialogue and negotiation following final tenders.
23. Either a competitive procedure with negotiation or competitive dialogue is likely to become the preferred procurement option. Both will enable the bidders to help shape the final partnership arrangements enabling the council to access the expertise from developers and to agree an arrangement that provides the best solution for both parties. This process generally worked well when the Council procured the Cardiff Living Partner, although was very lengthy. Timings can be accelerated by ensuring clarity of objectives and specified minimum requirements from the outset and with these in place, along with a robust project team, it is considered that a process of competitive dialogue or competitive negotiation could be completed within 12 months.
24. The presentation in **Appendix A** provides more details of the options that will be considered in taking forward the new partnership programme.
25. Currently the Cardiff Living Programme is delivered through an overarching Development Agreement (DA) with each site being drawn

down individually and managed by separate JCT contracts. The Council retains ownership of the land and Wates build under licence to the Council. Wates finances the private homes and markets them for sale in return for a profit. The agreed profit and overhead margins are set within the DA and the council gets a share of the sales value as a land value which in turn helps to subsidise the affordable homes.

26. The council's current role in the Cardiff Living partnership includes;
 - Land assembly
 - Funding the new affordable homes
 - Stakeholder and Political engagement
 - Inputting into the planning and design processes
 - Acting as lead partner to Wates

27. The wider roles that can be considered through a second partnerships include;
 - Taking a larger role in the funding of homes for market sale, potentially funding the market sale homes in full for a full return of the sale profits or part funding for a larger share of the sales profits.
 - Developing an opportunity for the General Fund to fund the delivery of homes for private rent on suitable sites as an investment opportunity for the council in order to provide a long-term return for that investment.
 - Adopting a more open book approach and risk sharing methodology to better manage unknown aspects of development and improve the returns to the Council.

28. Using lessons learnt from the Cardiff Living programme, the structure of a second partnership and the proposals released to the market should ensure:
 - that a robust set of baseline development costs are obtained along with a clear method of benchmarking all projects in the programme back to the tendered costs
 - a clear method and procedure for including additional sites within the programme is adopted – setting in place suitable parameters for this within the scope of the procurement
 - Innovation can be encouraged, promoting the use of modern methods of construction (MMC) where appropriate and enabling different construction methods to be considered on a site-by-site basis
 - Driving more value out of the programme and a better return to the council for its land & resources by adopting a risk/profit sharing approach
 - That the programme is delivered at scale and pace
 - The Development Agreement is flexible enough to reflect ongoing and unforeseen changes to policies and requirements associated with the development of new homes.

29. To ensure that a second Partnership is an attractive proposition for suitable development partners it is imperative that a suitable pipeline of development sites are included. The programme needs to have volume

in unit numbers and sites able to deliver homes for sale. The majority of the sites being proposed are already identified within the approved development pipeline and have been profiled within the HRA Business Plan.

30. Two additional and significant sites have been included and these add both scale and market sale opportunity to the programme overall. The list of sites is Provided in **Appendix B** along with the viability assumptions and likely development costs identified within the business case. The sites identified so far have the potential to deliver circa 1,700 new homes.

Opportunities for Collaboration

31. A second Partnership Programme could be structured to enable collaboration. Two opportunities have been identified which are detailed below. Collaboration could allow additional sites and development opportunities to be included within the programme, making it more attractive to Bidders and bringing in additional value and opportunities – such as an increased programme of social value and more strategic partnerships.
32. Discussions have taken place with the Vale of Glamorgan Council regarding a collaboration opportunity for the Vale to include a number of their own development sites with the second partnership. These sites could deliver around 475 new homes. If this were to happen a single Design Guide and Development Specification would be agreed to ensure homes are built to the same standards across the entire programme. This could bring additional benefits in a number of ways including;
 - Increased volume making the programme more attractive
 - Increased social value and more opportunities to develop long-term training and employment opportunities
 - Knowledge sharing across the Partnership
 - Potential to share resources
 - Increasing the supply of affordable housing across the region
 - Economies of scale & potential for cross-subsidy
33. Should the decision be made for collaboration between Cardiff and the Vale to take place a tender could be structured to enable Contractors to bid for 1. Cardiff's Programme, 2. the Vale's programme or 3. Both programmes combined.
34. A second opportunity for collaboration could be with Welsh Government and include the release of Welsh Government land in Cardiff for housing development. Welsh Government have recently undertaken a pilot land release for housing exercise in the Vale of Glamorgan to increase the supply of new housing, releasing land with minimum requirements in place regarding the quality and sustainability of the new homes across all tenures– a vision which very much aligns with our own. It could be possible for land earmarked for release by Welsh Government for affordable housing could be included and delivered within Cardiff's second Partnership programme.

Resources

35. In order to deliver a second Partnership Programme, it is imperative that adequate resources are in place to support the Development team. Within the Development Team a dedicated Project Manager and Project support will be required to manage the development of a second partnership as well as a procurement exercise, however the following will also be needed:
- **Legal** – drafting of Development Agreement, contract structure, procurement advice.
 - **Procurement** – managing the procurement process, drafting procurement documents, dealing with clarifications.
 - **Cost consultants** – Helping to structure tender packs, evaluation of costs, viability advice.
 - **Finance** – assessing bids, profiling Capital, helping with viability assessments.
36. If there are insufficient internal resources in these areas these gaps will need to be filled by external consultants.

Local Member consultation

37. The majority of sites identified for inclusion in the second housing partnership have previously been considered and approved by cabinet through the Annual HRA Business Plan. Ward Members have been advised of the detail of the new additional sites. As the programme implementation will extend over around 10 years there will be on-going ward member consultation in relation to specific individual site progress as has been the case with the Cardiff Living Partnership.

Reason for Recommendations

38. To set out the rationale behind implementing a second Cardiff Housing Partnership Programme in order to deliver new homes at scale and pace as opposed to delivering sites on an individual basis.
39. To obtain approval in principle to deliver the pipeline housing development sites identified within this report through a second partnership.
40. To approve the commencement of a procurement exercise to identify a preferred development partner. Delegating authority to the Corporate Director for People & Communities to manage all aspects of the procurement process including the agreement of the procurement route and refining all aspects of the documents, evaluation criteria and the process.
41. To enable the creation of a project team to deliver a second partnership including the appointment of external support as necessary.

Financial Implications

42. As part of any procurement a financial evaluation of any chosen supplier will need to be undertaken to ensure any supplier strength and capacity of the supplier to deliver the obligations under any partnership.
43. Design standards and scope of projects will need to be set out and agreed at an early stage so as many elements of the project as possible are subject to the tender and competitive process to ensure value for money.
44. A number of sites proposed are in the current capital HRA investment programme, however costings need to be updated as part of the further iteration of the programme for 2023/24 to reflect additional cost pressures, timing and resources diverted towards short term measures as such as meanwhile use at the gas works site. In addition, there are sites indicated in this report which are not currently included in the programme as well as those it is not clear as to whether they are surplus sites or where the delivery mechanism may not have been confirmed e.g Atlantic Wharf, Cardiff Pointe.
45. For sites proposed to be included in the programme, it needs to be clear that the council has the skills and capacity to deliver the outcomes, in line with any timescales for Capital receipts expected from relevant sites.
46. The report does not include for members an overall estimate of the proposals at this stage, however what is clear is that unless there is a significant allocation of subsidy grant from WG, the HRA borrowing requirement is likely to rise further to meet the objectives set out in the report. This will be updated as part of the budget report 2023/24 and HRA business plan, with mitigating actions on priorities, where required.
47. Any borrowing needs to be agreed as prudent, affordable and sustainable. Where the council does not have the key tools and control of mitigations to ensure that any future risks to affordability or market changes can be managed and the HRA remain viable, then such risks will need to be clearly highlighted, understood and mitigated.
48. New housing will generate additional income in the form of social housing rents. Viability assessments should be run for all developments at the various stages set out as best practice by the Directorate to ensure such income can meet costs of new development over a reasonable period in line with agreed thresholds. These should be recorded with any changes at each stage documented and approved. Given the scale of expenditure for each individual site, such assessments must demonstrate a robust business case approach, reasonableness of costs and aim to ensure that investment paid for by borrowing can be repaid over a prudent period. It should be recognised that any borrowing is in the name of the Council as a whole.
49. The report sets out potential options for consideration of private market sale. Such activities will increase any short-term borrowing requirement

and associated costs. This will require robust cash flow forecasting and to ensure receipts from sales are received and received promptly as to do otherwise will also increase the level of HRA borrowing requirement until such receipts are received. Any land appropriations nor the valuation of any such appropriations have not been identified in the report. These will need to be agreed by a qualified valuer and also be included in any HRA borrowing requirement.

50. The report refers to earning income from private sector rental investment income. Any such proposals, where within powers to do so, will need to be reviewed to ensure that there is no breach of HM Treasury regulations that prevent local authorities borrowing primarily for yield. Any such breach could result in borrowing restrictions for the whole council from the Public Works Loan Board and be a significant risk to financial resilience.
51. Developing the partnership is likely to result in additional short term revenue costs in delivering the partnership in the form of due diligence, professional advice etc. The estimated costs of this are not determined in this report, but these will need to be resourced by the HRA.

Legal Implications

52. Section 123 of the Local Government Act 1972 provides power to dispose of land for not less than best consideration reasonably obtainable. When determining the value attributable to the proposed partnership/development agreement, the decision maker should have regard to the Council's Acquisition and disposal of Land Procedures rules and the advice of a qualified valuer.
53. Furthermore, the Council is required to comply with the Council's Contract Procedure Rules, the Public Contract Regulations 2015, and Procurement law generally to ensure the Council is obtaining value for money for the provisions of works and /or services anticipated to be procured via the partnership/development agreement.
54. It is noted that a further report is expected to be brought back to Cabinet to make the final decision before awarding the partnership/development agreement and further legal advice can be provided on any specific issues arising from the procurement and disposal of land processes. Prior to making a decision to enter into an agreement consideration should given to the need to advertise the disposal of any sites forming part of an open space, and the appropriation of land for planning purposes to assist facilitating development.

Equalities & Welsh Language

55. 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.

56. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers ([WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 \(gov.wales\)](#)) and must be able to demonstrate how it has discharged its duty.
57. An Equalities Impact Assessment aims to identify the equalities implications of the proposed decision, including inequalities arising from socio-economic disadvantage, and due regard should be given to the outcomes of the Equalities Impact Assessment where required.
58. 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

59. 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 wellbeing objectives are set out in Cardiff's Corporate Plan 2020 -23.
60. 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.
61. 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
62. 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>
63. The decision maker must be satisfied that the proposal is within the Policy and Budget Framework, if it is not then the matter must be referred to Council.

Property Implications

64. Strategic Estates work closely with Housing and Communities on the appropriations of Council land from the General Fund to the HRA Account. Estates encourage the transfer of such land in order to support the ever increasing housing list.
65. Any further appropriation undertaken will need to be sanctioned through the internal valuation process as the delegation for this sits within Economic Development and Estates will need to sanction all land transactions through Head of Property or a separate Officers Decision Reports.
66. Estates will not be advising on the proposed private market sales directly, but will need to sanction the proposed process for managing any disposal from this portfolio. Similarly, if there are private rental investment income being generated, in order to achieve best value, Estates will need to sanction any proposed PRS transaction processes.
67. Whilst not directly involved in the procurement of the second partnership, it is advisable for Estates to be involved in the proposed Project Board to advise on any land transactions processes as necessary.

HR Implications

68. Paragraph 35 of the report sets out the resources required to deliver the second Cardiff Housing Partnership Programme. Additional resources will be evaluated and recruited in line with the Council's corporately agreed processes.

RECOMMENDATIONS

Cabinet is recommended to:

1. approve in principle the implementation of a second Cardiff Housing Partnership Programme including the commencement of a procurement exercise to appoint a development partner.
2. approve the list of development sites currently proposed to be included within a second partnership programme and approval that more suitable sites can be added into the programme, subject to complying with financial parameters including viability assessments and working within the HRA Business plan.
3. delegate authority to the Corporate Director for People and Communities in consultation with the Cabinet member for Housing and Communities, to manage all matters relating to the procurement process including agreeing the procurement route, agreeing the parameters and delivery model of a second partnership programme, agreeing the procurement documents, agreeing the evaluation criteria and the evaluation of the bids.
4. note that a subsequent report will be presented to Cabinet following the conclusion of the procurement process seeking approval to appoint the preferred Bidder.

SENIOR RESPONSIBLE OFFICER	Sarah McGill Corporate Director People & Communities
	11 November 2022

The following appendices are attached:

- Appendix A – Presentation to Cabinet
- Appendix B – Site Detail (Confidential)