

Acquisition of a strategic site in Hereford to deliver affordable housing

Decision maker: Cabinet member commissioning, procurement and assets

Decision date: Monday, 31 January 2022

Report by: Interim Director of Development

Classification

Part Exempt

This report is open but the appendices 1 to 5 are exempt by virtue of the paragraph 3 (below) from the Schedule 12A of the Local Government Act 1972, (as amended) and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

Decision type

Non-key

Wards affected

Widemarsh

Purpose

To approve the strategic purchase of land in the Widemarsh ward within a defined budget and to authorise officers, following appropriate consultation and due diligence, to proceed with the acquisition.

The proposed purchase will be a strategic acquisition which supports the council's aspiration to create a pipeline of affordable housing and accords with the council's County Plan 2020-2024.

Recommendation(s)

That:

- a) **The purchase of the freehold of the land set out in appendix 5 is approved subject to completion of all due diligence process and the Chief Finance Officer being satisfied that the purchase provides value for money;**

- b) A budget of up to £400k is agreed to complete the purchase and all other associated fees; and**
- c) The Chief Finance Officer, following consultation with the Cabinet Member Commissioning, Procurement and Assets, be authorised to take all operational decisions to complete the purchase.**

Alternative options

1. Not to proceed with the purchase. This option is not recommended as the land, which is subject to full residential planning permission, has been on the open market for a period of time. If the council does not acquire the land it is highly likely that housing that could be provided on this land will remain undelivered by private developers.

Key considerations

2. The land is subject to full planning permission for a residential development in a central location.
3. The opportunity is for the council to invest in the fabric first approach to ensure the residential properties are built to a high sustainability standard as they are not yet constructed. Energy sources, insulation and building materials will be used to create a highly sustainable development.
4. The published Housing Market Area Needs Assessment (HMANA) has identified a housing need for 394 additional properties in the Hereford Market Area annually of which 275 have been identified as in need of an affordable housing tenure. Home Point data indicates a need on the current waiting list for 101 general needs rental properties in the Whitecross area. In addition there is also an identified need for key worker accommodation and specialist accommodation for vulnerable groups such as people with learning disabilities and mental health problems.
5. The land is subject to a planning permission for open market residential units. The planning permission can be flexed to ensure the development is viable by considering all affordable tenures.
6. In the County plan 2020 – 2024 the council has expressed an ambition to deliver 1000 new homes and to protect and improve the lives of vulnerable people and to reduce the number of people in Herefordshire identified as homeless, and to develop its own housing stock. The purchase and development of this land would contribute to achieving that target.
7. On completion of the purchase and prior to any subsequent development local registered providers will be approached to provide housing management and maintenance services to the properties. A contract will be entered into in line with the council's contract procedure rules for any long time management requirements of the development. The rental income of any development will cover all associated costs with a registered provider.

8. The Council are currently in dialogue with Homes England regarding available grant funding on the development. Early discussions have suggested a percentage of the overall development costs could be bid for as grant. A submission cannot be made until construction costs and timescales are known, these will be identified once a contractor has been procured. It is likely that a bid submission will be made by the end of the year.
9. An independent Red Book valuation was commissioned from Fisher German in July 2021, attached in Appendix 1, which shows a valuation of the land and its potential Gross Development Value. An updated Rebook Valuation was commissioned in January 2022 and is attached in Appendix 2 as an addendum to the Fisher German report.

Community impact

10. The County Plan 2020 - 2024 aims to shape the future of Herefordshire and encourage and strengthen communities whilst creating a thriving local economy and protecting and enhancing the environment to ensure Herefordshire remains a great place to live, visit, work, learn and do business.
11. Delivering housing to help address the shortage of affordable housing in the County is intrinsically linked to the ambitions of the new County Plan 2020 – 2024:
 - Environment – protect and enhance our environment and keep Herefordshire a great place to live
 - Community – strengthen communities to ensure everyone lives well and safely together
 - Economy – support an economy which builds on the County’s strengths and resources
12. The published HMANA dated July 2021 has identified a need for all tenures within the county. Increasing the number of available properties will contribute to a balanced community providing additional accommodation of an alternative tenure to meet a wider cohort of residents in the county.

Environmental Impact

13. The proposal for the council to advance the delivery of housing in the County and have at least an element of control over design helps deliver the council’s Environmental Policy commitments and aligns to the following success measures in the County Plan 2020 - 2024:
 - I. Increase flood resilience and reduce levels of phosphate pollution in the County’s rivers – by ensuring that new developments take into account opportunities to minimise the impact on the environment including, where appropriate, through grey water capture and other methods.
 - II. Reduce the council’s carbon emissions – seeking high levels of sustainability and energy efficiency in the construction and operating costs of new homes delivered.

- III. Work in partnership with others to reduce County carbon emissions – working with partners to minimise our carbon footprint in terms of methods of construction and in seeking the use of local materials and labour wherever possible.
 - IV. Improve the air quality within Herefordshire – supporting the development, where appropriate, of car free schemes in new developments and making provision for safe cycling and walking spaces.
 - V. Improve residents' access to green space in Herefordshire - ensuring new developments make appropriate provision for green space and the use of appropriate, indigenous planting.
 - VI. Improve energy efficiency of homes and build standards for new housing – good design and high levels of energy efficiency in council-owned or influenced developments will provide a blueprint principle to other developers in Herefordshire.
 - VII. Increase the number of short distance trips being undertaken by sustainable modes of travel – walking, cycling, and public transport – promoting access to sustainable modes of transport in the master-planning of larger scale developments
14. The central location of the land would allow individuals the opportunity to either walk or use public transport to move around. This in return would help to reduce carbon emissions and go some way to improving the air quality. The land also provides good access to sustainable modes of transport.

Equality duty

15. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
- A public authority must, in the exercise of its functions, have due regard to the need to
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
16. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine groups with protected characteristics: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The decision has no detrimental impact for eligible service users.

17. Section 9 of the Housing Act 1985 (the 1985 Act) is the key power for councils to provide housing accommodation. It includes two sets of acquisition provisions: Sections 9(1)(b) and 9(2) - a local housing authority (LHA) may acquire houses – and alter, enlarge, repair or improve a house so acquired; Section 9(3) – a LHA can exercise the Section 9 powers to provide housing accommodation "in relation to" land acquired for the purpose of (a) disposing of houses provided, or to be provided, on the land or (b) disposing of the land to a person who intends to provide housing accommodation on it.
18. The purchase of site and the delivery of properties will add to the County's housing stock and will be affordable in perpetuity allowing future households who share protected characteristics to have access to appropriate accommodation. The decision will support the council in discharging its equality duty.

Resource implications

19. Capital prudential borrowing will be used to fund this work of up to £400k, allocated in the capital programme approved at Council in February 2021.
20. The return on investment will be achieved through income generation which will be modelled during the design stages when the number of units and size is finalised. The rental income is anticipated to cover all developments costs of the site over the life of the assets, based on a similar 40 year scheme.
21. If the project does not ultimately result in a capital asset the costs incurred will be reviewed and may need to be charged against the revenue budget. These costs will be financed by an earmarked revenue risk reserve the status of which will be reported through the quarterly finance reporting to Cabinet.
22. Council set aside £20m in the capital programme for Strategic Housing Development, to date the following approvals have been taken and including this £400k (to complete the purchase and all fees) outline designs, site surveys and the planning application submission) leaves available funding of £18.691m.
 - I. In order to progress the development pipeline and establish a draft programme for delivery, funding of £71k was allocated from the DRP capital budget in November 2020
 - II. In order to advise on building housing to maximise the environmental benefits to meet the council's climate emergency responsibilities an independent expert was appointed within a budget of £20k was allocated from the DRP capital budget in November 2020
 - III. In order to progress with the first proceedable affordable housing scheme, funding of up £68k to work up outline proposals for Station Approach was allocated from the DRP capital budget in December 2020.
 - IV. In order to progress the development pipeline and consider third party land to establish a draft programme for delivery, funding was allocated of £350k from the Strategic Housing Development capital budget in May 2021

V. In order to complete the initial designs, site surveys and the outline planning application submission funding was allocated of up to £400k from the Strategic Housing Development capital budget in July 2021 for the Holme Lacy and The Paddock, Aylestone Ward, sites.

23. The detail of the funding can be found in Appendix 4 which will be exempt from publication.

Legal implications

24. The council is empowered to acquire land for its statutory purposes, by a number of enabling statutes. Section 120(1) Local Government Act 1972 provides the power to acquire by agreement, any land inside or outside the council's area for the purposes of any of its statutory functions or for the benefit, improvement or development of its area. Section 1 of the Localism Act 2011 confers a power of competence on the council to do anything that any individuals may generally do however the council must act commercially and reasonably and having regard to its general fiduciary duty in the management of public finances, as well as its specific duty to obtain best value in the delivery of all of its functions, under s3 of the Local Government Act 1999.

25. The council is also able to deliver housing under the provisions of section 9 of the Housing Act 1985. Sections 9(1)(b) and 9(2) of the Housing Act 1985 authorises the council to acquire houses (including flats, lodging-houses and hostels) and alter, enlarge, repair or improve any such house so acquired. Section 9(3) of the Housing Act 1985 allows the council to provide housing accommodation "in relation to" land acquired for the purpose of (a) disposing of houses provided, or to be provided, on the land or (b) disposing of the land to a person who intends to provide housing accommodation on it.

26. In order to demonstrate the council has met its value for money obligations, an independent expert valuation has been commissioned to evidence the value of the land. All necessary due diligence will be undertaken and scrutinised prior to entering into contractual obligations.

Risk management

27. The key risks associated with the options outlined in this report are as follows:

The land is not valued at the proposed purchase price	Red Book valuation has been commissioned to review the land value in the current market
Development at the land does not achieve grant funding requirements	Complete initial application with Homes England prior to purchase completion to understand the potential to receive grant funding for completed development at the land
Cost of development of the land in accordance with granted planning permission proves prohibitive for financial viability	Commission technical surveys to provide estimated cost of development prior to purchase completion
Ongoing maintenance and future refurbishment costs of any development of the land proves prohibitive to financial viability	Explore options of a local Registered Provider providing the housing management and maintenance of the properties, to understand if the charge of the service will be covered by the rental income for each apartment
Homes England grant funding is insufficient to support development for affordable homes	Submit the grant funding request to Homes England when the costs of development have been identified

28. Risks are managed according to the council’s risk management framework, aligned with corporate risk strategy and recorded on a service risk register, being escalated to the directorate or corporate risk register according to the significance of the risk

Consultees

29. Consultations have taken place with the Cabinet Members for Housing, Regulatory Services, and Community Safety; Commissioning, Procurement and Assets; Finance, Corporate Services and Planning;
30. Consultation has also taken place with the ward member for the area in which the land is situated who was supportive of the purchase but highlighted a number of potential issues with development of such a small site. The specific feedback received from Cllr Andrews was: “I repeat my previous comments that 8 flats on this site would be a cramped development with little amenity space for the residents – I would be more supportive if the no of flats was reduced to say 6.”
31. This paper and the recommendations contained within it incorporate comments received during the above consultations

Appendices

- Appendix 1 – Red Book Valuation Report (exempt)
- Appendix 2 – Red Book Valuation Addendum (exempt)
- Appendix 3 – Updated Appraisal (exempt)
- Appendix 4 – Financials (exempt)
- Appendix 5 – Land Particulars/Brochure (exempt)

Background papers

None

Report Reviewers Used for appraising this report:

Governance	John Coleman	Date 23/07/2021
Finance	Karen Morris	Date 19/01/2022
Legal	Alice McAlpine	Date 19/01/2022
Communications	Luenne Featherstone	Date 20/07/2021
Equality Duty	Carol Trachonitis	Date 21/07/2021
Procurement	Mark Cage	Date 20/07/2021
Risk	Kevin Lloyd	Date 20/07/2021

Approved by	Andrew Lovegrove	Date 21/01/2022
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