

CABINET

17 MAY 2012

COUNCIL HOUSE BUILDING PROGRAMME 2012-2033: PURCHASE OF
PROPERTIES – DEVER CLOSE, MICHELDEVER

REPORT OF HEAD OF NEW HOMES DELIVERY

Contact Officer: Andrew Palmer Tel No: 01962 848152

RECENT REFERENCES:

[CAB 2197](#) - Disposal of Housing Revenue Account (HRA) Land and General Fund (GF) Land at Dever Close, Micheldever – 6 July 2011

[CL76](#) – Strategic Approach to Council House Building – 18 April 2012

EXECUTIVE SUMMARY:

Cabinet authorised the disposal of Housing Revenue Account and General Fund land at Dever Close, Micheldever for the purpose of the construction of 15 affordable homes by Winchester Housing Trust (WHT) in July 2011 ([CAB 2197](#) refers). As a result of a funding shortfall, the Trust has recently approached the Council to offer the Council the opportunity to work in partnership on this scheme and purchase from them the rented properties when they are completed. The recommendation aims to facilitate the speedy deliver of affordable homes, ensure the optimum mix of housing and maximise the Council's interest in the development.

RECOMMENDATIONS:

- 1 That the purchase of 7 rented properties consisting of 2 x 1 bed flats, 2 x 2 bed houses and 3 x 3 bed houses at Dever Close, Micheldever from Winchester Housing Trust be agreed in principle.
- 2 That the Head of Estates, in consultation with the Head of Finance and the Leader, be authorised to determine the final terms and conditions for the purchase, having regard to the costs contained in Exempt Appendix 1, such terms to be based upon whichever of the following options is most expedient in achieving the Council's objectives of early delivery at acceptable cost:
 - sale of the whole site for development by the Winchester Housing Trust and the purchase from the Trust of 7 completed properties for rent at development cost; or
 - The retention in the Council's ownership of the land required for the construction of the 7 rented properties and the granting of necessary consents and agreements for the construction of those properties by the Winchester Housing Trust to be paid for by the Council at development cost.
- 3 That the Head of Estates be authorised to issue a licence to Winchester Housing Trust or its representatives to enter the site to carry out preliminary site investigations (including archaeology works) prior to the transfer of the land.
- 4 That the Council agrees to reimburse Winchester Housing Trust any reasonable abortive costs incurred as a result of agreed investigation works incurred from 11 May 2012 in the event that the development does not proceed as a direct consequence of a decision by the Council. .
- 5 That a direction be made under Contracts Procedure Order 3.1 authorising the procurement of the 7 rented properties comprised in the development through Winchester Housing Trust and its appointed contractor.

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REPORT OF THE HEAD OF NEW HOMES DELIVERY

DETAIL:

1 Introduction

- 1.1 An affordable housing scheme has been planned in Micheldever since 2002 with the best site for the development being identified as land behind Dever Close. The site (which is currently in the ownership of the Council) has a number of constraints which have proved an obstacle to development by housing associations. Winchester Housing Trust (WHT) stepped in with alternative proposals and at its meeting on 6 July 2011 ([CAB 2197](#) refers), Cabinet agreed to the disposal of the site to WHT to enable them to develop the site, subject to a number of conditions. Planning consent was granted in May 2011, subject to WHT entering into a Section 106 agreement to secure the provision of affordable housing and other planning matters.
- 1.2 The consent obtained is for 4 x 1 bed flats, 6 x 2 bed houses and 5 x 3 bed house with the mix of tenure having been agreed by Cabinet in conjunction with advice from the Head of Strategic Housing as ideally 7 rented units and 8 shared ownership, with the proviso that the final mix would be dependant on external grant available. The provision of the shared ownership units is a particularly objective of the Parish Council.
- 1.3 Cabinet's approval of the disposal of the site to WHT was subject to:
 - a) terms and conditions to be agreed by the Head of Estates;
 - b) matters in the recommendations in Exempt Appendix 2 to the Report;
 - c) obtaining of a special consent from the Secretary of State;
 - d) nomination rights to be granted to the Council or its nominated agent.
- 1.4 Terms for the disposal of the whole site had been agreed, including the matters in the Exempt Appendix 2. A special consent has been obtained, and nomination rights are provided for in the draft documentation.
- 1.5 This report sets out the current position regarding development of the site by WHT, and recommends that the Council acquires the rented houses comprised within the development.

2 Current Situation

- 2.1 WHT approached the Council in April 2012 following tenders for development which allowed full scheme costs to be calculated. Taking account of available finance, including private loan finance, this showed that in order to ensure a viable scheme, while achieving the preferred mix of housing, the scheme was some £875,000 short of funding. WHT initially approached the Council requesting a cash grant of up to this sum to enable the project to proceed. Without this funding the rental properties might not be built, putting the whole development at risk.
- 2.2 The Council might not have been in a position to offer a grant to WHT from General Fund resources but in any case, given the approval of the Council's New Homes Delivery Programme and the funding available via the Housing Revenue Account (HRA), the preference would be to purchase completed properties as rented council houses. This would allow WHT to complete the total scheme with the best mix to meet local housing needs, with the first new council houses forming the rental element. Rents may also be lower as they will be at council house rent levels rather than housing association levels. The completed scheme (both rented and shared ownership) will still be for local people and allocated as set out in the S106 Agreement.
- 2.3 At present, the land remains in the Council's ownership as the transfer / sale has not been completed. The Council could withdraw from the sale of the land and seek to develop the whole site itself but this would mean that WHT would have to carry the significant costs it had already incurred in obtaining planning permission. This would not be in the spirit of partnership working and would prejudice future housing delivery. WHT is an important provider of affordable housing in the District and it is a relationship that would be in the long term interests of the Council to maintain. Additionally, the Council has no experience of building and marketing shared ownership properties and to do so would represent a considerable risk to the Council. There is strong local support for building a mixed tenure scheme and this would be compromised if a scheme containing only rented homes were to be developed. Alternatives would be for the Council to provide either a grant of up to £875,000 from the General Fund and receive no rental income, or to seek permission to vary the planning consent to allow the construction of 15 shared ownership properties. Neither of these alternatives seems better than the construction and purchase of new council houses.
- 2.4 Buying the completed properties from WHT allows the development to proceed as originally planned and within the existing tender proposals. It is therefore cost effective and builds on an existing partnership. It is also likely to ensure the delivery of the first new Council houses more quickly than any other arrangement.
- 2.5 If Cabinet agrees with general principle there are two ways in which the Council could proceed to acquire the rented houses from WHT. Firstly it could proceed with the current arrangement i.e. to sell the whole site to WHT,

but then purchase the completed properties from WHT at development cost only (i.e. under open market value) at the end of the build process. The advantage of this arrangement is that if the majority of the legal work and related permissions are in place, the work has been tendered and contractors ready to start in August 2012. The disadvantages are that the buying back of the seven rented properties would incur Stamp Duty, and it is likely that WHT is unable under charity and related legislation to sell the properties at under market value. If this route were to be pursued, a binding agreement would have to be in place for WHT to offer the properties back at an agreed price, and for the Council to take the properties at that price once completed.

- 2.6 The second mechanism would involve only the sale of the land to the Trust required for the building of the shared ownership properties, with the Council retaining ownership of the land on which the rented properties would be built. The properties would then be built by WHT under a licence granted by the Council and would belong to the Council on completion. The agreement would need to provide for the Council to make a payment of the development cost of each property on handover following completion. Although this would make the land transfer more complex and necessitate further negotiations with WHT's solicitors, it may reduce the headline price per unit for the Council as Stamp Duty would not be payable. It would also avoid any issues with restrictions on WHT having to sell land at open market value. As the Council would be procuring building works itself (albeit through the use of WHT's contract with its selected contractor) a direction under the Contracts Procedure Rules would be required to authorise this. It is recommended that the Head of Estates and the Head of Legal Services investigate the issues arising from the alternatives and that the Head of Estates in consultation with the Head of Finance and the Leader of the Council be given delegated authority to make a decision on which option to pursue, having regard to the financial issues, legal complexities and the benefits of making early provision of new affordable homes. The financial details of the proposed purchase by the Council of the 7 rented properties as known at the point of writing this report are set out in Exempt Appendix 1 of this report but will follow the general principle that the Council will purchase the properties for the development cost only.
- 2.7 To ensure that the scheme is not delayed while any agreements arising from the report are put in place, it is desirable to allow WHT to enter the site to carry out agreed site investigations, such as those relating to archaeology and ecology. However, to do this ahead of an agreement represents a risk to WHT. They have already incurred significant costs in bringing proposals to planning stage and it is recommended that the Council agree to meet these costs if development by WHT does not proceed because of a decision by the Council. This sharing of risk will reduce chances of delays. It should be noted that any development of this site, now or in the future, will require these investigations to have been undertaken.
- 2.8 The proposal to purchase the rented units from WHT conforms with Principal 3 as set out in Council report CL76, Strategic Approach to Council House

Building, 18 April 2012, in that the main priority will be to fund new rented properties on Council-owned land.

OTHER CONSIDERATIONS:

3 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS
(RELEVANCE TO):

- 3.1 Active Communities: to support local people accessing high quality and affordable housing which meets their needs

4 RESOURCE IMPLICATIONS:

- 4.1 Purchase will be funded from the money set aside in the HRA Business Plan for new council homes. See Exempt Appendix 1 of this report

5 RISK MANAGEMENT ISSUES

- 5.1 There is a risk that if the Council did not purchase the 7 rented properties, the scheme would be abandoned, delayed or reduced to shared ownership properties only. As demand is high for rented units, the risks to the Council are minimal if it purchases the completed units from WHT. There is a small risk that the tenants of the rented properties could exercise the Right to Buy (RTB) as with all Council owned property. However, having regard to the very low numbers of RTB sales due to the high cost of property in the District (even allowing for the increase in discounts rates) the risk is thought to be quite low.

BACKGROUND DOCUMENTS:

Winchester Housing Trust scheme financial details have been supplied and are contained in files available from the Head of New Homes Delivery

APPENDICES:

Exempt Appendix 1 Financial details