CAB3147(HSG)
CABINET (HOUSING) COMMITTEE

REPORT TITLE: HOOKPIT FARM, KINGS WORTHY – NEW HOMES SCHEME

20 MARCH 2019

REPORT OF PORTFOLIO HOLDER: LEADER WITH PORTFOLIO FOR HOUSING, CLLR HORRILL

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WARD(S): KINGS WORTHY

PURPOSE

The report seeks approval for the purchase of 35 properties at Hookpit Farm, Kings Worthy and adjoining land for recreational purposes for the sum of £8,036,081.00.

RECOMMENDATIONS:

1. That the Corporate Head of Asset Management is authorised to enter into a conditional purchase contract to acquire 35 homes and additional recreation land from Drew Smith Ltd. for the sum of £8,036,081.00 subject to obtaining a parent company guarantee.

2. That the Corporate Head of Asset Management be authorised to agree the terms and conditions of sale as proposed in exempt appendix 1.

3. That the Corporate Head of Asset Management is authorised to complete the purchase of the 35 completed homes upon completion of their construction together with additional land for the sum of £8,036,081.00.

4. That the Corporate Head of Housing in consultation with the Corporate Head of Asset Management be authorised to negotiate and agree terms and enter into arrangements (including if deemed necessary the grant of a lease) with an appropriate body for the management and maintenance of the recreational

open space acquired as part of the development.

5. That Rule 9.2 of the Council's Contract Procedure Rule be waived and the Head of Legal Services be authorised to accept a single quotation from Anthony Collins Solicitors to deal with the acquisition of the properties and recreational land on the Council's behalf.

IMPLICATIONS:

1 COUNCIL STRATEGY OUTCOME

1.1 This scheme supports Delivering Quality Housing Options – the scheme will provide a mix of rented, shared ownership and discount market sale affordable housing.

2 FINANCIAL IMPLICATIONS

2.1 The completed properties and additional land are offered for purchase for the sum of £8,036,081.00, for which, budget provision has been included in the Housing Revenue Account Capital Programme for 2019/20.

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 External legal advice from Antony Collins Solicitors has previously been sought on the appropriate contract structure to ensure that the arrangements do not fall foul of the procurement legislation. See Exempt Appendix 3. It is not possible for the Council to acquire the land from the developer and then procure the works of construction without carrying out an EU compliant tender process. Nor is it permissible for the Council to procure the works of construction and take a transfer of the properties on completion without carrying out an EU compliant tender process. Land transactions are however exempt from the procurement legislation but development agreements and works agreements are not. To ensure that the transaction qualifies as an exempt land transaction the Council cannot include specific obligations in the contract for sale which specify the works to its requirements or seek any changes to the Specification but will need to rely on informal consultation and the use of its statutory powers under the Town and Country Planning Act 1990 and the Building Regulations. It can in effect only agree to purchase the properties in the event of the developer wishing to build them.

4 WORKFORCE IMPLICATIONS

4.1 none

5 PROPERTY AND ASSET IMPLICATIONS

5.1 The scheme will provide 35 new affordable Council homes

6 CONSULTATION AND COMMUNICATION

6.1 Several consultation events have been held with the local community as well as additional meetings with Kings Worthy Parish Council and Top Field Action Group to ensure the scheme benefits the local community

7 ENVIRONMENTAL CONSIDERATIONS

7.1 The scheme will fully meet sustainability standards set by planning requirements.

8 EQUALITY IMPACT ASSESSEMENT

8.1 none

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 none

10 RISK MANAGEMENT

10.1 The significant risk associated with this type of contractual arrangement is the risk of the Council's 25% deposit which is to be paid at the start of construction. The Council intends to purchase the 35 dwellings and the remainder of 'Top Field' upon completion of the development. The structure of the payment will be based on approximately 5% deposit on exchange of contracts, a further 20% on the award of a planning consent and the balance on completion. The developer wishes the deposit to be held by its solicitors as "agents" for the developer rather than as "stakeholders to enable the developer to use the deposit monies to part finance the development.". The risk is that the developer of the site enters administration during the development of the properties and the Council loses its 25% deposit (as it's not secured against the land). The deposit will however be protected by a parent company guarantee from Galliford Try Partnerships).

Risk	Mitigation	Opportunities
Property *Build quality* *Specification* The Council is not involved in the design or specification of the scheme The Council has no right to change the specification	 Enforcement of building regulations Copy of Council's Employers Requirements issued for guidance only on the quality expected for new schemes, but the Council cannot insist they are met contractually The Council will seek a full specification at exchange of contracts but will have no control over the development other than	

Properties unsold	through the use of its statutory powers Convert to rented accommodation	
Community Support	Number of events with Kings Worthy residents and neighbours immediately affected by the scheme were held to identify and mitigate potential issues	
Timescales		
Financial / VfM *Deposit payment at risk*	Financial viability appraisal has been undertaken – risk with builder as purchase price is pre-agreed Appropriate financial checks are carried out on the Seller and a guarantee will be provided to protect deposit	
Legal *Risk of challenge that the transaction is not an exempt land transaction and should have been procured.*	Specialist legal advice has been obtained on the contractual / procurement issues and to undertake the conveyancing work.	Alternative contractual approaches were considered however there would be a greater risk of legal challenge unless a full EU Procurement was conducted
Innovation	"off the shelf" purchase	
Reputation *Loss of deposit*	Parent Company Guarantee to be arranged	
Other *Failure to complete development*	Deposit will be returned and Council could pursue purchase of land only and separately tender build works	

11 SUPPORTING INFORMATION:

11.1 The Hookpit Farm site is an area of land outside of the development boundary for Kings Worthy consisting of a 9.4 ha of land. The land benefits from an outline planning consent for 25 units of affordable housing, with the remainder of the land retained by Drew Smith. When the original outline planning consent was granted in February 2018, there was some local concern expressed about the future of the remainder of the Top Field site which was not incorporated within the consented scheme. It had been a desire of the local community to see the land available for public access which culminated in an application under the Commons Act 2015. This application was rejected at a public enquiry in September 2016.

11.2 The owners of the site approached the Council and advised that they would consider an offer for the whole of the Top Field site and one way of achieving this outcome could be the addition of some further affordable housing. The Council discussed this idea with the local community representatives who felt that it was worth a discussion with the wider community including the views of the Top Field Action Group (TFAG) who had pursued the town and village green application.

11.3 Two community consultation events were held with Kings Worthy residents as well as a number of smaller meetings to address more specific issues such as drainage mitigation for neighbouring properties. The outcome of these events was that there was a broad local consensus to support a new scheme which would provide an additional 10 new affordable properties (in addition to the previously consented 25) and the remainder of the site being held in public ownership and accessible to the local community.

11.4 At the request of the community the Council has investigated various management arrangements for the open space which would give long term protection and a well managed environment reflecting the sensitivity of the site. Initial discussions with the Land Trust have taken place and they have indicated their interest in managing the land for the Council.

11.5 The owners of the site, Drew Smith have offered the Council a package price of £8,036,081.00 for the construction of 35 dwellings and the remainder of the site in their ownership (the plan being to provide this as open space for community use). The mix of housing would consist of:

- 4 x 1 bed flats (affordable rent)
- 4 x 2 bed flats (affordable rent)
- 11 x 2 bed houses (affordable rent)
- 6 x 2 bed houses (shared ownership)
- 6 x 3 bed houses(affordable rent)
- 2 x 3 bed houses (shared ownership)
- 2x 4 bed houses (discounted market sale)

11.6 The scheme mix reflects local needs but also the need to generate a surplus to subsidise the acquisition and improvement of the open space and its long term management. All of the properties will be affordable housing, as defined in the National Planning Policy Framework and as an exception site will be for local people with a connection to Kings Worthy.

11.7 Drew Smith has a long established reputation as an affordable housing contractor in the South East having worked in the sector for over 25 years. They are currently working with Southampton City Council delivering Extra Care accommodation, Eastleigh Borough Council building a mixed development of flats and houses and Radian (Housing Group) at Bordon in East Hampshire. They completed one scheme of 21 homes for Winchester City Council in 2017 at New Queens Gate, Stanmore which was nominated for the regional LABC Awards. In addition the Council is currently negotiating a 77 home scheme at The Valley, Stanmore.

11.8 The Hookpit scheme meets the Council's viability tests which include an additional £100,000 to improve the field for public use and £10,000 pa for management and maintenance. With an input of £1M internal subsidy via RTB receipts (which have to be spent otherwise returned to HMCLG) the loan repayment is year 32 with a net NPV of £47,459. The full viability appraisal is set out in Appendix 1.

11.9 It is proposed that the conveyancing be carried out by Anthony Collins Solicitors on behalf of the Council,. The quote for the work is £13,950 which, under the Council's Contracts Procedure Rules is above the threshold for accepting a single quote for work. As Anthony Collins provided the original advice on procurement it is the opinion of the Head of Legal Services that it would be advantageous to maintain continuity and ensure that the transaction constitutes an exempt land transaction and appoint them to complete the remaining work.

12 OTHER OPTIONS CONSIDERED AND REJECTED

12.1 The Council could have developed the original 25 affordable homes, however it was recognised that developing an additional 10 affordable homes would secure the remainder of Top Field as open space in perpetuity for the local community. The Council could have purchased the open space without additional housing however this option was rejected on financial grounds.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

None

Other Background Documents:-

None

APPENDICES:

Appendix 1 - Viability Appraisal

Appendix 2 - Draft Heads of Terms

Appendix 3 Advice from Anthony Collins 18 April 2018