

CABINET

Chatsworth Gardens Housing Exemplar 19 January 2010

Report of Corporate Director (Regeneration)

PURPOSE OF REPORT			
To provide members with details of the current position following the selected developer no longer being able to deliver the Chatsworth Gardens Housing Exemplar Project and in particular the contingency development as contracted in the funding agreement with the Homes and Communities Agency, together with associated proposals.			
Key Decision	X	Non-Key Decision	Referral from Cabinet Member
Date Included in Forward Plan	March 2009		
This report is public.			

RECOMMENDATIONS OF COUNCILLORS ARCHER AND KERR

- (1) That Cabinet notes the position of the project following Places for Peoples' retraction of their bid and the legal position of the council as stipulated in the contract.
- (2) That Cabinet supports Option 1 for officers to develop and appraise a contingency proposal that will provide members with a detailed cost/risk appraisal of a selected refurbishment scheme, and that the £60K funding needed be considered as a revenue growth bid, for referral on to Council. This will enable members to make an informed decision on whether to progress this important regeneration project with HCA.

1.0 Introduction

1.1 The Council has been working with the Homes and Communities Agency (HCA), formerly known (prior to December 2008) as English Partnerships, to deliver the Chatsworth Gardens Housing Exemplar scheme. The objectives of the proposal are as follows:

- Attract families and long-term residents to live and work in and near the town
- Create a more balanced community
- Reverse the negative perception of Morecambe's West End as a place to live
- Reduce the number of HMOs (Houses in Multiple Occupation)
- Kick-starting public/private investment in the area;
- Creating confidence in the market – to show that family housing is possible and hence have a catalytic effect (along with the other interventions)

- Deliver quality housing stock to Code for Sustainable Homes Level 3
 - Address crime and social conditions in the area
 - Act as a demonstration to the market in terms of the standard and quality of housing that should be delivered in the Masterplan area
- 1.2 Cabinet agreed to enter into a Funding Agreement with English Partnerships at its meeting of the 13 February 2005 (minute 111 refers) in order to secure funding to enable this scheme to proceed.
- 1.3 The 2005 funding agreement contract sets out the process for the project to follow with voluntary acquisitions, developer selection and completion of site acquisitions. The contract also contained clauses covering the way to deal with the financial investment in the event of a scheme not being able to be progressed through default by any of the parties involved in delivery.
- 1.4 Although it was originally envisaged that the existing properties would be remodelled, when this proposal was put to the developer market all respondents, including Places for People (PFP), put forward new build schemes as the only commercially viable solution to meeting the brief. The PFP new build scheme was selected as the bid.
- 1.5 Following the selection of PFP as preferred developer in 2006, the rising housing market forced a reappraisal of the costs to the council for acquiring the remaining property to complete site assembly. The updated appraisal of acquisition costs took the total project cost just above the £10 million delegated authority of the HCA and had to be referred to the Department of Communities and Local Government (DCLG) for approval.
- 1.6 The PFP scheme for Chatsworth Gardens was subject to a full “Green Book” appraisal by DCLG in conjunction with HM Treasury. A “Green Book” appraisal is HM Treasury’s highest level of scrutiny for government funded schemes and is carried out on all government funded projects over £10 million. The appraisal presented a series of options and the PFP scheme was assessed as the best option in terms of economy, efficiency and effectiveness.
- 1.7 Following DCLG approval in October 2007 the final funding agreement with the HCA for the additional £2.3 million and the development agreement with PFP to deliver the scheme and provide a contribution of £1.239 million were negotiated. However, before the contract agreements were signed in 2008 PFP identified a funding gap in the scheme caused by the falling housing.
- 1.8 In accordance with Cabinet’s decision on 17 February 2009 officers worked with HCA and PFP to ensure there was sufficient funding in place to enable the council to complete property purchases to place site in single public ownership and enter a development agreement.
- 1.9 Following lengthy and protracted negotiations it became clear that PFP could not deliver the scheme, and this was confirmed at a meeting of the key partners held on 08 December 2009. By way of explanation PFP cited the following key impacts:
- Decrease in West End property values that would lower end value receipts
 - Increased sales risk
 - Increase in development costs due to a new requirement for achievement of “Code 4” sustainable homes.

- 1.10 The only viable solution for PFP to proceed was for them to introduce additional subsidy/grant package through the HCA's National Affordable Housing Programme (NAHP) scheme. However on review the inclusion of NAHP funding took unit costs to a level considerably in excess of set public investment benchmarks. In addition the scheme could not be delivered within the set timescales that required a start on site before April 2011. All parties therefore agreed the PFP scheme was not viable in the current economic climate.

2.0 Proposal Details

- 2.1 The £7.8 million HCA funding used for acquisition of property to date is backed by contractual agreements. There is an 'in principle' agreement for an additional £2.3 million HCA funds but this is currently reserved for the PFP scheme which will not now proceed. Any new or alternative scheme, that would exceed the HCA £10 million delegation, would require a new Green Book Appraisal by DCLG and HM Treasury.
- 2.2 In the terms of the Funding Agreement between the HCA and LCC the retraction of the £1.239 million offer by PFP has triggered "an event of default" under the provisions of the Agreement, as the Council no longer has the necessary resources and funding to complete the works (albeit due to the fact that the developer contribution is no longer available which was outside the control of the Council). In this eventuality the Agreement provides that the Council will as soon as possible (and in any event within 6 months) provide the HCA with its detailed written proposals for the future management development and disposal of the Council Site. HCA also has to agree the way forward and has indicated there is no more funding available.
- 2.3 In the event that the HCA does not find the Council's proposals acceptable it will provide the Council with its own written proposals for the future management development and disposal of the site within six month of the receipt of the Council's Proposals.
- 2.4 If neither proposal can be agreed a *disposal surveyor* will be appointed to market and dispose of the properties in such lots and on such terms to achieve the best possible sale price reasonably obtainable, pursuant to section 123 of the Local Government Act 1972.
- 2.5 Officers are exploring what could be achieved using the 'sunk' resources (property within the site and outside the site which could be sold and income recycled), those HCA funds committed 'in principle' to the current proposals. These options are on the understanding that a wholesale private developer led scheme is not viable now and for the medium term. That is, the council does not wish to 'hold' the site/property indefinitely (or demolish and 'sit' on sites) and take a chance that the market improves.
- 2.6 A revised scheme for Chatsworth Gardens will still need to meet the original project objectives as previously outlined. These specific project objectives are in addition to the mandatory quality and price standards applicable to all HCA housing projects. However, if the scheme is to be exemplary it must exceed these standards which include Level 3 Code for Sustainable Homes, Secure by Design, Lifetime Homes Standards, Civil Engineering Environmental Quality (CEEQUAL), space standards, re-use of resources etc.
- 2.7 Initial development work is already underway looking at a range of variables to define the best potential solution. Given the level of detail required and risks involved this work is expected to take some months

3.0 Details of Consultation

- 3.1 The Winning Back Morecambe's West End Masterplan was developed by a multi agency steering group which included community representation through the West End Partnership, along with representation from the City Council, County Council, English Partnerships, the Housing Corporation, Adactus Housing Group, NWDA and the MP for Morecambe and Lunesdale. The initial scope of the Masterplan was set following a day long consultation event where the local community was asked what issues they wanted to see addressed. The options for addressing those issues were then developed through a two day Enquiry by Design event which included expert professional advisors working through potential interventions with representatives of the local community. The final options for intervention were then agreed by the Steering Group before going out to a three day consultation event held at Heysham High in September 2004. A further public meeting was held in December 2004 at the Platform which was attended by approximately 300 people. Following this event the final Masterplan was agreed by the Steering Group in December 2004. The Masterplan was subsequently adopted by Cabinet as a supplementary planning document to the Lancaster District Plan at its meeting in February 2005.
- 3.2 The Chatsworth Gardens Housing Exemplar Project has specifically been subject to further detailed consultation process. The initial development brief, which formed the basis of the developer selection process, was developed and agreed in consultation with the West End Partnership. Following this the consultation that took place was specific to the PFP scheme for Chatsworth Gardens.
- 3.3 It is envisaged that as part of the development and agreement of new proposals for Chatsworth Gardens further community consultation would take place prior to the scheme being finalised. This would be in addition to the formal statutory consultation required for obtaining planning permission.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The following two options are available:

Option 1 – Progress Refurbishment Scheme

Firm costs are required to establish the viability of this option, or the extent to which it could be implemented. Previously as part of the Green Book Appraisal this option was discounted as being not financially viable. It may only be possible to undertake a selective refurbishment of target blocks with some properties sold off with restrictive covenants to provide funding to invest in the selective acquisition of outstanding properties in target blocks. It may also include some demolition to create either new public open space or private external space. Demolition may also be undertaken to enable a new development to come forward on part of the site from small developers. In summary the refurbishment option will review all possibilities to obtain the best possible scheme.

For the properties that can be refurbished this option would include the removal of rear outriggers and for the four storey properties the removal of a storey to make the houses of a size more suitable for single family occupation. To enable Level 4 Code for Sustainable Homes to be obtained the refurbished properties would require external wall insulation as well as party wall, floor and roof insulation internally. The properties would also require the extensive use of high efficiency heating and plumbing.

Renewable energy technologies such as solar hot water and photovoltaic panels would also be needed. Demolition may also be undertaken to enable a new development to come forward on part of the site from small developers. Any proposal made under this scheme would be subject to HCA funding and approval.

Option 2 –Disposal of properties already acquired for the scheme

The 2005 Funding Agreement does make provision that, if no alternative scheme is considered acceptable to the HCA and the Council, then all of the properties should be placed back on the market and sold in order to recoup public investment. It should be noted that this option is not favoured by HCA who are keen to see the Council put forward alternative options.

Non-statutory guidance issued under the Crichel Down Rules will need to be considered in the event of this option.

- 4.2 Officers have updated the previous options analysis undertaken for the Green Book appraisal and discounted a new build option due to the PFP outcome. If no viable option can be found or agreed Option 2 provides a mechanism to dispose of the acquired properties and close the project. As noted this latter case is a last resort and not currently favoured.
- 4.3 Further work is required to develop a detailed cost model to be able to evaluate the feasibility of Option 1, and this would need to be considered as a growth item. Previously a full site refurbishment has been discounted by the private sector on the grounds of high cost. However, the council could itself lead site acquisition, undertake phased refurbishment and remodelling. By using council internal staff resources as much as possible it is clear costs could be reduced significantly. The public sector also has no requirement for profit and exemption from VAT.
- 4.4 Tendered costs for the remodelling of large villa terraced properties on Bold Street are due to be received on 20 January 2010. This will provide some up to date cost information for estimates and enable officers to better understand the potential extent of a refurbishment scheme.
- 4.5 Officers will also need to develop a specification for the refurbishment of the properties that will meet Code for Sustainable Homes Level 4 and the other quality and price standards set out by the HCA. However, it is more than likely funds will still not be sufficient to pursue a full refurbishment and this should be regarded as 'aspirational' for the moment.

5.0 Officer Preferred Option (and comments)

- 5.1 The preferred option is Option 1 with officers being given a mandate to explore the full extent of what can be achieved with the potential funding available and to seek agreement with HCA.
- 5.2 In addition to the tender price data received for Bold Street it will be necessary to appoint a Quantity Surveyor to develop robust cost estimates. Architectural services will also be required to assist in layouts, design and providing the most cost effective solutions to turning what are extremely inefficient homes into some of the most environmentally efficient homes in the district.
- 5.3 Any refurbishment scheme would need to meet the Code for Sustainable Homes Level 4 and the other quality and price standards for an HCA housing scheme. A considerable advantage of refurbishing the existing properties is that it would act as an exemplar for what can be achieved with these large properties in the West End.

- 5.4 Contingency development costs will be incurred. Up to £60k should be allowed for investigations which cannot be undertaken 'in house' by the council e.g. architects and quantity surveyors, although officers will try wherever possible to use 'in house staff'. HCA could agree that these costs be funded from capital receipts but the mechanism has still to be agreed and in line with accounting practice, this would be dependent upon it being reasonably certain that a capital scheme would progress. As such, it would be prudent (and advised by the s151 Officer) to allow for this in the council's revenue budget proposals at this stage.
- 5.5 The council is incurring property 'holding' costs which are forecast to be met for this year, but future costs are not covered by any current funding agreement as the current funding agreement has been drawn down in totality. HCA will not fund these directly. However, HCA have agreed that capital receipt/disposal of "non-project properties" could be re-utilised towards holding costs – though again this may present accounting difficulties. Two non-project properties are going to auction in early February 2010 and if sold would more than cover the contingency development costs – though this links with the issues raised in s5.4 above.

6.0 Conclusion

- 6.1 In line with existing contract between the Council and HCA the preferred option will allow officers to develop and appraise a contingency proposal that will provide members with a detailed cost/risk appraisal of a selected refurbishment scheme. This will enable members to make an informed decision on whether to progress this important regeneration project with HCA.
- 6.2 Following this report work will be undertaken on the detailed proposal in full consultation with HCA.

RELATIONSHIP TO POLICY FRAMEWORK

The Morecambe Action Plan recognised the housing issues within Poulton and West End areas as having negative impact on the perception and economic potential of the town and that radical interventions were necessary to remove HMO's and privately rented flats and create new modern housing options.

The Council's Housing Strategy 2004/08 prioritises neighbourhood level investment in Poulton and West End areas of Morecambe.

The Chatsworth Gardens Project is a key element of the West End Masterplan and was ranked as a high priority by Cabinet as part of review and refresh exercise carried out on the Masterplan in 2009.

As 40% of the districts homelessness derives from failed private sector tenancies in the West End, these proposals will help reduce homelessness as the housing supply imbalances are corrected and the transient nature of the community is stabilised.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The Masterplan has carefully considered issues of sustainability and is drafted on those principles. The scheme will be designed and built in accordance will English Partnerships

Quality and Price Standards which ensure high quality urban design, including safer by design and life time homes standards as well as high environmental.

Human rights and diversity issues are given special consideration as owner interests are acquired and through dedicated resettlement support offered to existing residents.

FINANCIAL IMPLICATIONS

The draft revenue budget includes provision for property holding costs of £92,100 in this financial year and £88,500 in 2010-11. Currently there is no budgetary provision for the proposed contingency development which is estimated at a maximum of £60,000, and therefore this would need to be considered as a growth item should Option 1 be pursued.

The current funding approval from HCA has been drawn down and further funding was reliant upon securing the further £2.3 million from the HCA and £1.2 million from PFP. However over £1 million is tied up in 16 non-project properties. *Non-project properties are defined in the 2005 Funding Agreement as Masterplan properties in phase 1 project areas that are outside the Chatsworth Gardens site. The non-project properties were acquired with Collaboration Agreement funding in 2004 prior to Chatsworth Gardens being selected as the main focus for HCA funding. It was always the intention to sell these properties as other Masterplan projects came to fruition.*

Four properties on Marlborough Road are contracted to be sold to Adactus Housing Association for £264,190, with a £26,419 deposit already paid and the balance due when the redevelopment of new housing starts on site later this year.

Two properties are due to go to auction in early February 2010, but to prevent prejudicing the sale values obtained the expected values are being withheld. If the sales are successful further "non-project" properties will be auctioned.

While the HCA funding that is presently locked up in the "non-project properties" is clearly sufficient to cover the forecast cost to complete Option 1 contingency development, and HCA agreement in principle has been obtained for capital receipt/disposal of "non-project properties" to be re-utilised towards holding costs and contingency development costs, at this stage this would not be in accordance with accounting practice.

The additional funding approval from the HCA of £2.3 million is specific to the PFP scheme. The development of an alternative scheme, as per option 1, will require a new appraisal. Previously the additional funding of £2.3 million required on top of the original £7.8 million already approved took the total public cost over the £10 million delegation. If the total cost of the alternative scheme is below £10 million this would be within the HCA delegation and would be a 'local' decision for funding approval. Similarly if the alternative scheme is greater than £10 million it would require another Green Book Appraisal by Central Government.

It should be noted that there is no guarantee that the alternative scheme option developed will obtain approval at either local or central appraisal.

If option 2 is selected or is the default option after pursuing option 1 without success then further property holding costs and the costs associated with appointing a disposal surveyor and necessary fees and disbursements to sell the properties can be deducted from the proceeds as justifiable expenditure under the funding agreement with the remainder being returned to the HCA; there would need to be further review of the details to ensure this met other legal and accounting requirements. However, should Cabinet determine that option 2 is the preferred or eventual default option, then a more detailed report will be required for

Members to consider the budgetary impact on the Council of projected timescales for disposal of properties, interim impact on the Council's cashflow position from ongoing associated holding/security costs, etc.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and her comments reflected within the report. Members are advised to consider the proposal in context of priorities and other competing needs and requests, the likelihood of a viable scheme being developed, and the Council's financial position and its prospects.

LEGAL IMPLICATIONS

Legal Services have been consulted and their comments inserted within the body of the report where appropriate.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Winning Back Morecambe's West End Masterplan
Morecambe Action Plan 2002
Lancaster District Housing Strategy 2004/08

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