

**DEVELOPMENT OF AFFORDABLE HOUSING AT SITE NEAR OAKFIELDS,
BURLESCOMBE**

Cabinet Member(s): Councillor Ray Stanley, Cabinet Member for Housing
Responsible Officer: Andrew Jarrett, Director of Finance, Assets and Resources

Reason for Report: To provide the Cabinet with information about the Council's interest and involvement in this development in advance of a decision in February 2018 to award the contract for the design and build.

RECOMMENDATION: that the Cabinet report be noted.

Relationship to Corporate Plan: One of the Council's key Corporate Plan priorities is the delivery of affordable housing numbers.

Financial Implications: A sum of £800k is included in the 2017/18 capital programme for the delivery of 6 affordable housing units at Oaklands, Burlescombe and £210k of funding has been committed by the Homes and Communities Agency (HCA) if work is started by the 31 March 2018. Section 5.1 of the Council's Financial Regulations makes allowance for a contract waiver process to be agreed if the formal process/timeline would result in additional cost to a project.

Legal Implications: The Council must comply with procurement laws and its own financial regulations. Compliance with EU procurement law is a requirement of the funding agreement with the HCA. The report outlines the process which will be followed. Additional advice on legal implications can be given if necessary and will also form part of the future report on contract award.

Risk Assessment: See Legal Implications. If the Council is unable to start on site by a given date in March 2018, it risks losing the HCA funding.

Equality Impact Assessment: None arising from this report, which is to be noted. The impacts will be reassessed for the contract award report.

1.0 Introduction

1.1 The Council has an award of funding from the Homes and Communities Agency (HCA) to put towards the development of 6 affordable dwellings on a site at Burlescombe. The amount of the funding is £210,000. The HCA has stated that work needs to start on site before 31 March 2018 – and this needs to be a meaningful and material start. The risk of not making a start by that date is that the funding will no longer be made available. Time is therefore of the essence.

1.2 The Council already has an option to purchase the land, which will be exercised when the planning permission is issued – the option sum is already accounted for in the budget. The Planning Committee resolved to

grant permission on 9th August 2017, subject to a Section 106 Agreement between the Council and the landowner to secure the land for affordable housing. The conclusion of the Section 106 Agreement is imminent. Once the planning permission is issued, there are a number of pre-conditions which will need to be discharged.

- 1.3 The main concern is the start-on-site date in order not to lose the HCA funding. In addition to the planning permission and formal acquisition of the land, a developer needs to be appointed under a design and build contract. The intention for some time has been that the Council's own housing development company, 3 Rivers Developments Limited, undertakes the development. This has the advantage of keeping close control of the development of this 100% affordable housing site, but also, and importantly, enables a quick progression with the scheme at this crucial stage. Nevertheless, the Council needs to be clear and comfortable about the process to be followed. This is set out in part 2 to this report below.

2.0 **Procurement of design and build contract**

- 2.1 The proposal is to bring a report to the next meeting of the Cabinet on 1 February 2018. This will be a contract award decision for a design and build contract, a mixed procurement where the dominant purpose and value is in the build stage. The details will be set out in the next report; however, for completeness of understanding, the value is expected to be significantly below the EU threshold for works – currently set at more than £4 million. Although OJEU processes will not therefore apply, the Public Contracts Regulations 2015 will require the contract award decision to be published on Contracts Finder.

- 2.2 For contracts of the anticipated value, the Council's Financial Regulations would ordinarily require local advertisement. The waiver process set out in the Financial Regulations will therefore need to be applied, if the Council is to let the contract to 3 Rivers. As has previously been highlighted, time is of the essence and, in addition to the advantage of close control over the development, the reality is such that :

- the procurement of a third party contractor would take time - which is not available;
- The timetable to bring together the planning permission, the acquisition, the design and build contract and start on site is exceedingly tight and being driven by the need to secure the HCA funding – this is an exceptional case; and
- 3 Rivers is fully familiar with the site and is able to carry out some early preparatory work to facilitate a start on site in March 2018.

- 2.3 In terms of who has the power to make the decision to award the contract, for contracts of the anticipated value, this would be a Cabinet-level decision. There is provision in the budget for this financial year and also in the draft budget which would enable the contract to be awarded by Cabinet and finance the start of works in March 2018.

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Circulation of the Report: Leadership Team, Cabinet Member for Finance and all Cabinet Members

List of Background Papers:

Committee report and Minute 21(d) Planning Committee 14 June 2017

Committee Report and Minute 46, Planning Committee 9 August 2017