

Southend-on-Sea Borough Council

Report of Executive Director (Finance & Resources)

To

Cabinet

On

6th October 2020

Report prepared by:

Joe Chesterton, Executive Director (Finance & Resources)

On behalf of the Better Queensway Partnership Board

**Agenda
Item No.**

Porters Place Southend-on-Sea LLP: Additional 100 Homes Update

A Part 1 Public Agenda item

Relevant Scrutiny Committee: Place Scrutiny

Cabinet Member: Councillor Ian Gilbert

1 Purpose of Report

- 1.1 The purpose of this report is to update the Council with regards Recommendation 2.6 of a report to Cabinet on 30th June 2020 (the “Final Proposals Report”) and approve a recommendation for the Council to enter into and execute the legal agreement to secure the additional 100 affordable homes for social rent.

2 Recommendations

- 2.1 That Cabinet note that the Legal Agreement (“the Agreement”) that has been negotiated by the Council, Swan Housing Association and Porters Place Southend on Sea LLP as set out in this report is now completed to secure the additional 100 affordable homes for social rent.
- 2.2 That authority is delegated to the Executive Director (Finance & Resources) and Director of Housing in consultation with the Leader to:
- 2.2.1 Review and, if applicable, approve any offer made under the Agreement to acquire or gap fund with nomination rights any of the 100 additional affordable homes;

2.2.2 Settle and complete the value for money terms of each acquisition or gap funding with nomination rights, within the approved capital investment programme budget;

2.2.3. In the event of an acquisition option being selected, to agree and procure the management arrangements for these units.

2.3 That Cabinet refer to Council for approval for an initial budget addition to the Housing Revenue Account Capital Investment Programme of £10m for this project and to be funded by the HRA capital investment reserve.

2 Background

3.1 The Better Queensway regeneration project (“the Project”) is a Southend 2050 roadmap project which contributes across all of the themes and outcomes as set out in the Shareholder Board Report of the 25th June 2020. The joint venture legal entity (“the JV”), named Porters Place Southend-on-Sea LLP, was established in April 2019 as the vehicle to progress the delivery of the Project.

3.2 A report to Cabinet on the 30th June 2020 updated Cabinet on the Project and sought approval of the final proposals as detailed in that report.

3.3 Cabinet approved the final proposals as referred to in minute 104 of that Cabinet.

3.4 The Final Proposals Report provided for a delegation to the Executive Director (Finance & Resources) to complete a Memorandum of Understanding to secure a commitment by Porters Place Southend-on-Sea LLP to offer the Council a minimum of 100 additional affordable homes for social rent.

3.5 Recommendation 2.6.2 of the Final Proposals Report provided that authority was delegated to the Executive Director (Finance & Resources) to finalise negotiations and settle the terms of a formal legally binding agreement (the “Agreement”) to capture the principles as set out in the Memorandum of Understanding (as referred to in Recommendation 2.6.1 of the Final Proposals Report) to secure a commitment by Porters Place Southend-on-Sea LLP to offer the Council a minimum of 100 additional affordable homes for social rent.

3.6 Recommendation 2.6.3 of the Final Proposals Report required that subject to the approval of the Agreement by the Council, the JV and Swan Housing Association, the Executive Director (Finance & Resources) should bring a report to the next available Cabinet to approve the completion and entering into of the Agreement. This report seeks approval to enter into the Agreement.

3.7 As negotiations have proved positive since the report to Cabinet in June it is now the position that the intended Memorandum of Understanding is now not required and the Council can instead move directly to agreeing and entering into the Agreement with the LLP and Swan to secure the requirement for the additional affordable 100 homes.

3.8 Once the Council, the JV and Swan HA are agreed that the units initially identified by the JV are suitable for conversion from private to affordable housing units based on the stated selection criteria, the Agreement provides 2

routes for the Council to access these additional units – either outright purchase and subsequent ownership by the Council in perpetuity, or gap funding with nomination rights in perpetuity, in which case the units would be owned by Swan Housing Association.

- 3.9 In the case of outright purchase, the purchase price will be calculated at 85% of the open market value plus any difference between the actual and estimated cost of constructing the relevant unit(s) with the caveat that the Council can never be required to pay more than open market value. Alternatively, if the Council elects to gap fund for nomination rights the units and Swan exercises its option to acquire those units, the level of gap funding to be provided by the Council will be based on the capitalised affordable rental stream less any applied grant sourced for such units(s). The Council will then have nomination rights to any units acquired by Swan HA using Council gap funding being 100% of first lets and all subsequent re-lets (i.e. in perpetuity).
- 3.10 The ability of the JV to offer these additional 100 units to the Council pursuant to their obligation in the Agreement will be dependent on the parties working together to secure the necessary waiver from Homes England for such units to be disposed of at less than market value in line with the terms of the HIF funding requirements. In addition, the Council will continue to seek to secure additional affordable homes above the 100 now agreed over the course of the scheme life taking into account the relevant cost, tenure and market mix and any grant funding that could be received.

4 Other Options

- 4.1 Not approving the completion of the Agreement would have a negative impact on the Council's affordable housing supply and therefore it would not meet one of the requirements of the Project to maximise affordable homes nor would it remove the need for the Council to deliver more affordable homes in the borough and further would not support the additional commitments as agreed at Full Council (Minute 737).
- 4.2 There is also a risk to the goodwill that has been established between the parties if the Agreement having been approved by the JV Board and recommended for approval were not approved by the Council.
- 4.3 An alternative option could be to acquire units that come to market at the time and then designate as social housing. This would be subject to market conditions, as does the current proposal but without certainty that the Council would be offered these units and also potentially at a higher cost to the Council.

5 Reasons for Recommendations

- 5.1 Securing the additional 100 affordable homes supports the additional commitments as agreed at Full Council (Minute 737) to secure additional affordable housing and to deliver more affordable homes in the borough.
- 5.2 The recommended delegations are therefore included to provide for the Council to act expeditiously and at pace with regards to securing the additional affordable housing for social rent

6 Corporate Implications

As detailed in the Shareholder Board Report of the 25th June 2020.

The delivery of Better Queensway is a specific outcome identified in the Opportunity and Prosperity theme and is reflected in a number of milestones on the roadmap. The first of these has already been met in the signing of the legal agreements in April 2019 and second major milestone was achieved on September the 24th 2020 with the validation of the first planning application submitted by the JV.

6.1 Financial Implications

- 6.1.1 Paragraphs 3.8 and 3.9 above outline the terms of the 2 options open to the Council through the Agreement, either to gap fund the homes in exchange for nomination rights from Swan HA in perpetuity or to acquire the homes outright.
- 6.1.2 If the units are gap funded by the Council they would then be owned in perpetuity by Swan HA who would be responsible for their management. The budget for the gap funding for nomination rights would be met from the Housing Revenue Account – Capital budget. If the Council acquired the units it would be the responsible body for their management. It is the working assumption that the Council would let a management contract for these units to Swan HA as it is more efficient and effective for one managing body to be responsible for all of the affordable units on the site, as all other units on the site are to be managed by Swan HA. This management arrangement is however at the Council's discretion and can be decided on a case by case basis.
- 6.1.3 If the Council acquire the units, their purchase would be funded from the Housing Revenue Account – Capital Budget and operated from it in perpetuity, the costs of management would therefore fall on the HRA revenue budget.
- 6.1.4 Currently there is no approved budget in the Housing Revenue Account Capital Investment Programme to enable the acquisitions of the 100 additional homes whether this be through outright purchase or nomination rights. The total budget required will vary depending on the size of the units that are selected and the market value at the date they are triggered. If it is assumed that on average the units purchased / gap funded are 2 bedroom units, depending on which option is chosen the cost to the Council could range from c. £10m for nomination rights to c. £25m of the full 100 homes without any cost increase. If costs increase significantly, a worst case scenario in the current market is c.£15m for nomination rights to c.£29m for outright purchase of the full 100 homes. This is based upon the current state of the housing market and these costs could go either up or down depending at what time the acquisition is made.
- 6.1.5 There could also be a blended mix with a combination of acquisitions through nomination rights and outright purchase and the budget required would be between those ranges.
- 6.1.6 At Full Council on the 21st February 2019 when considering the Better Queensway Cabinet report of the 12th February 2019, the following recommendation was agreed that any profits / surpluses generated from the

Better Queensway scheme, either from acting as development partner or senior lender, should be “.....*swiftly invested in affordable housing to rent (at or below Local Housing Allowance (LHA) rates on a continuous basis over which the Council has nomination rights)*.....” (Minute 737 so refers).

- 6.1.7 This Agreement acts on this recommendation and seeks to invest the anticipated returns from the scheme over the medium to long term in securing additional affordable housing for rent as soon as possible in line with the requirements. The surplus on the scheme is anticipated to be significantly in excess of the £10m budget recommended, and whilst there remains risk to this return, as with any development activity, this risk is felt to be well managed.
- 6.1.8 It is recommended that to commence an initial acquisitions programme assuming gap funding for nomination rights there needs to be a capital budget of £10m. It is further recommended and that this project budget is reviewed regularly depending on the timing and speed of acquisitions and also whether the acquisition of the 100 homes is by gap funding for nomination rights or outright purchase. If an adjustment to the budget is required then Council budget approval will need to be sought at the appropriate time.
- 6.1.9 The capital budget will be under the Housing Revenue Account and the funding of the £10m budget will come from the HRA capital investment reserve.

6.2 Legal Implications

- 6.2.1 The Agreement, subject to clause 3.10 being satisfied, will secure the legal obligation on the JV to offer the Council a minimum of 100 additional affordable homes for social rent.
- 6.2.2 The terms of the Agreement are also in line with the principles previously agreed in the draft Memorandum of Understanding.
- 6.2.3 In entering into the Agreement there is no commitment on the Council to either acquire or gap fund any of the additional homes offered by the JV and this decision remains at the absolute discretion of the Council.

6.3 People Implications

- 6.3.1 While the LLP is responsible for delivery of the Project, the Project continues to be supported by a number of Council officers as technical experts in fulfilling Council responsibilities and in supporting the work of the JV, and on the Partnership Board which oversees the Council’s work in regards to the Project.
- 6.3.2 The work involved by the Council in securing this Agreement draws upon resource from Council officers and the Council continues to retain and utilise its procured specialist advisors alongside officers.

6.4 Property Implications

If the Council exercises the outright purchase option it will be acquiring an additional 100 properties for outright ownership (subject to a long lease), if the

gap funding option is chosen it is securing access for its residents to these units through securing nomination rights.

6.5 Consultation

N/A

6.6 Equalities and Diversity Implications

The Council has undertaken an Equalities Analysis in regards to the Project and this will be kept under review in regards to the evolution of the Project.

6.7 Risk Assessment

N/A

6.8 Value for Money

Please see Financial Implications

6.9 Community Safety Implications

N/A

6.10 Environmental Impact

N/A

7 Background Papers

Report to Cabinet on the 30th June 2020 (The Final Proposals Report)
Minutes 737 and 104

8 Appendices

None