

## **Economy and Growth Committee**

---

<b>Date of Meeting:</b>	15 <sup>th</sup> July 2021
<b>Report Title:</b>	Housing Development Framework - update
<b>Report of:</b>	CLT Lead Officer: Frank Jordan – Executive Director - Place
<b>Report Reference No:</b>	EG/01/21-22
<b>Ward(s) Affected:</b>	All wards

---

### **1. Executive Summary**

- 1.1.** On the 5<sup>th</sup> May 2020, Cheshire East Cabinet approved the procurement and establishment of a Housing Development Framework to commission the development of mixed tenure housing provision on certain sites where this was deemed to be appropriate.
- 1.2.** Delegated authority was given to the Executive Director – Place in consultation with the Portfolio Holder of Environment and Regeneration to:
  - 1.2.1.** Award and enter into a Framework agreement with a minimum of two and up to eight Housing Providers who meet the procurement criteria and requirements of the Framework.
  - 1.2.2.** To identify and approve appropriate Council owned land assets to be taken through the Framework
  - 1.2.3.** To approve the award of financial contributions held by the Council in lieu of affordable housing provision, to enhance development opportunities which are in line with the requirements specified under the terms of any Section 106 agreement where such financial contributions are made.
- 1.3.** Work on this has been progressing and the aim of this report is to provide an update on the project and to seek support for the sites which we are proposing to take forward through this process.

- 1.4. The establishment of a Housing Development framework supports the delivery of the Corporate Plan as follows:

**Open** - The selection of organisations to work with the Council has been established following a robust, transparent procurement process. The framework will deliver much needed housing

**Fair** - The proposal provides the Council with an opportunity to influence the type of development to meet housing need, especially in relation to increasing affordable housing and specialist housing provision.

**Green** - Through the framework we will deliver homes which are well designed, affordable and safe, contributing to the environmental, social and economic wellbeing of the Borough.

- 1.5. Furthermore, on 8th October 2019 Cabinet received a report in relation to the disposal of the former Vernon Primary School, Poynton. Approval was obtained to proceed with the required actions to move the site forward for disposal, whilst delegating authority to the Executive Director for Place in consultation with the Portfolio Holder for Environment and Regeneration to develop a disposal strategy for the Site and to report back to Cabinet with the proposed strategy and recommendations for the method of disposal of the Site.
- 1.6. Following an assessment of the site, it was felt that it provided an opportunity to deliver much needed affordable housing within one of the Council's highest house priced areas and would be a good site for inclusion within the Housing Development Framework.
- 1.7. This report therefore seeks approval of the proposed strategy for the disposal and re development of the former Vernon Primary School.

## 2. Recommendations

- 2.1. That the Economy and Growth Committee:
  - 2.1.1. Note the progress which has been made in relation to the procurement of the Housing Development Framework.
  - 2.1.2. Supports the disposal route of the sites which have been identified for progression through the Housing Development Framework (Appendix One).
  - 2.1.3. Approves of the disposal route of the former Vernon Infant School, Poynton through the Housing Development Framework.
  - 2.1.4. Notes that the final decisions regarding the disposal of these sites will be undertaken in line with decision making processes for land and property disposals as outlined in the constitution

### **3. Reasons for Recommendations**

- 3.1.** The rationale for the establishment of the Housing Development Framework is that the Council has the ability to intervene in the market to:
  - 3.1.1.** Contribute towards the housing supply across the Borough in order to address identified housing need
  - 3.1.2.** Deliver specialist housing provision in the Borough
  - 3.1.3.** Reduce the current use and cost of temporary accommodation.
  - 3.1.4.** Have the potential to provide a revenue stream for the Council as opposed to a one-off capital receipt.
- 3.2.** This approach will contribute towards the ambition set out within the new Corporate Plan 2021-2025 to enable access to well designed, affordable, and safe homes for all our residents.
- 3.3.** This paper also sets out a disposal strategy for the former Vernon Infant School, in Poynton
- 3.4.** The former Vernon Infant School has been declared surplus and is now vacant. The site is incurring holding costs and therefore consideration has been given to the best route to dispose of the site, whilst ensuring that any future developments meets the needs of the community and also enables the required reinvestment back into the local education sports provision in Poynton.
- 3.5.** There have been very few opportunities to bring forward a site for affordable housing in the Poynton area, which will provide opportunities for local residents to access affordable housing provision to rent and purchase in what is one of the highest house price area in Cheshire East.
- 3.6.** Over the last 3 years, there have been no affordable homes delivered in Poynton. There are currently 3 strategic development sites within Poynton which will bring forward 121 affordable housing in the future, of which 78 will be for rent.
- 3.7.** The current social housing waiting list data highlights that 153 households have applied for rented social housing provision in Poynton, however this may not reflect the total demand as residents acknowledge the limited provision and will register for other areas to enable them to secure affordable housing.

- 3.8.** It is important that residents in Poynton who are seeking their first house, or need to move due to an expanding family, have the choices available to them to stay within their community, close to friends and family, and to access property that is both of quality and affordable, without the requirement to move to other towns and areas.
- 3.9.** House price data in Poynton demonstrates that to access a 2 bedroomed house (current average asking price of £299,722) a resident would require an income of £63,275 (based on a 5% deposit and 4.5 times income), making it unachievable for those in receipt of average incomes, which are currently £31,700, (source: Income estimates for small areas, England and Wales: financial year ending 2018 - Office for National Statistics (ons.gov.uk))
- 3.10.** Most first-time buyers are priced out of the market and have to rely on the private rented market if they wish to stay within the area. The average rent for a 3 bedroomed property in Poynton is £950pcm (source: home.co.uk) which makes it unaffordable for the majority and especially those reliant on the welfare benefits system who are excluded from the market as Local Housing Allowance rates ( 3 bedroomed house £824.99) will not cover the average private rented property unless they can access affordable rented provision.

#### **4. Other Options Considered**

- 4.1.** In relation to the Housing Development Framework, a variety of mechanisms were considered or tested over a period of time to meet the objectives of increasing affordable housing provision, having control over the type and tenure of provision developed and securing a revenue stream. These were considered by Cabinet Members and it was agreed that the establishment of a Housing Development Framework was the most appropriate method.
- 4.2.** The alternative option in relation to the former Vernon Infant School would be to take the site to market. Whilst this would potentially generate a higher capital receipt it would not enable the Council to have any control or influence over the future development of the site.

#### **5. Background**

- 5.1. Housing Development Framework** - The Framework has been procured in accordance within the Council's Contract Procedure Rules.

- 5.2. The Framework will be in place for a period of 3 years with the ability to extend it for a further 12 months. During this period, the Council will be able to conduct mini competitions for the development of individual or packaged parcels of Council owned land.
- 5.3. We do not have to provide a guarantee of the volume of sites to be procured through this route nor are we contractually locked into this arrangement should a more viable alternative route be identified.
- 5.4. Appendix One outlines the initial sites that have been identified to be developed through this framework (this forms Part Two of this report due to the fact they are commercially sensitive). We are seeking Member support for the disposal route of these sites.
- 5.5. These sites are predominately brownfield sites which in some cases have vacant buildings on site. The sites have been through a process of identification. Officers reviewed the Council's disposal schedule, which outlines the assets that may come forward for disposal in the short to medium term. Services have been consulted to ascertain if they have a use for these assets, before commencing the disposal process. As part of this exercise, interest in these assets was identified for the Housing Development Framework. The reason that these sites were identified was at this stage the assets were deemed to be potentially suitable for this use.
- 5.6. Following the mini competition process, formal approval for disposal will be obtained in line with the Council's Constitution.
- 5.7. The Local Plan seeks to protect open space and greenbelt and therefore careful consideration has been given to the sites prior to selection to ensure that they meet the requirements of the Local Plan.
- 5.8. In addition to the information within this report a further questions and answers briefing has been compiled which is hoped to provide further clarification for Members – Appendix Two
- 5.9. **The former Vernon Infant School** –The school has been declared surplus to operational requirements and was closed in 2007, having been empty for a number of years it is now in a poor state of repair.
- 5.10. The site has been recommended as a parcel to be included in the Draft Site Allocations and Development Policies Document (SADPD) to deliver circa 50 dwellings and has previously had planning consent for an extra care scheme in 2010 (now expired). The site consists of the former school and a proportion of the playing field. The disposal of part of the school playing fields would not result in the adjacent Primary School having insufficient provision as they will still have in excess of the DfE guidance for playing pitch provision.

- 5.11.** It was agreed that consideration should be given to the most appropriate disposal route and development strategy, which then would require further approval by Cabinet, now through the Committee process.
- 5.12.** All the requirements have now been undertaken in order to facilitate the disposal of the site including
- 5.12.1.** The Council placed an advertisement in the local newspaper in respect of the proposed disposal of the public open space land at the Former Vernon Infant School for two consecutive weeks on 20th and 27th December 2019, in accordance with Section 123 of the Local Government Act 1972 (as amended by Section 118 of the Local Government Planning and Land Act 1980), and placed the same notice on the website of the Council during that period.
  - 5.12.2.** This allowed the local community/residents to comment, make objections or representations on the disposal. The deadline for such comments, objections or representations was 5pm on the 13th December 2019. The Council received no objections to the proposed disposal of the former Vernon Infant School site as advertised.
  - 5.12.3.** The Council carried out a consultation exercise for 8 weeks from December 2020 to January 2021 as part of the application to the Department for Education with regard to the disposal of playing fields. The Council received 7 representations who objected to the sale of the section of playing field, expressing concerns over flooding and the development of houses on the site These representations will be submitted with the S77 application.
  - 5.12.4.** The next step is to undertake a formal valuation report which to be included (by an independent valuer with RICS approval and a list of schemes needs to be determined, which the Council is considering and how these schemes are sustainable. The projects are listed in a hierarchy should the enclosed valuation not be achieved to allow some flexibility.
- 5.13.** This site would provide a good opportunity for the Council to influence the type of development required on the site and for it to contribute towards the Corporate target of increasing the numbers of affordable homes through the Housing Development Framework. The Housing Development Framework presents this opportunity.

**5.14.** Following this decision and in order to achieve the benefits set out in this report, less than best consideration decisions may need to be made on a case by case basis. These decisions would be supported by the relevant professional advice and in line with the legal implications set out below.

**5.15.** The recommendation is therefore for the site to be included in the framework for the provision of family houses (affordable rent and sale) and older persons bungalows, which would meet some of the housing need in the area.

## **6. Consultation and Engagement**

When allocating the sites through the framework, the successful organisation will be expected to undertake consultation as part of the planning process. Ward Members and local residents' engagement will form part of this process prior to completion of a final design.

Other consultations may be required as part of the process for the disposal of sites.

## **7. Implications**

### **7.1. Legal**

**7.1.1.** The Council has the power to dispose of land pursuant to s123 of the Local Government Act 1972 subject to it being at the best consideration that can reasonably be obtained. Section 123 of the Local Government Act requires the advertisement of the intention to dispose of open space before its disposal and proper consideration of any objections received following such advertisement. The consent of the Secretary of State is required prior to the disposal of land used as school playing fields by a maintained school in the period that is ten years prior to the disposal pursuant to s77 of the School Standards and Framework Act 1998.

**7.1.2.** General Housing Consents will apply if any of the sites have been appropriated for housing purposes.

**7.1.3.** The consent of the Secretary of State is required prior to the disposal of land used as school playing fields by a maintained school in the period that is ten years prior to the disposal pursuant to s77 of the School Standards and Framework Act 1998

**7.1.4.** The sale of developed or undeveloped land does not constitute a public works contract. However, it may be the case that an authority led development will result in the award of a public works contract where it falls within the ambit of the Public Contracts Regulations 2015 ("the Regulations"). Where the Council intends to impose by way of legal obligations on the developer the requirement to develop a site in a specific way this will give rise to a need to procure such a

contract. A Framework enables the Council to meet its need for a service, supply of goods or works for a set period of time in order to obviate the need to undertake a wide competitive procurement process for each individual scheme. It complies with the Regulations and the Council's Contract Procedure Rules.

**7.1.5.** Under section 123 of the Local Government Act 1972, a local authority has the power to dispose of land but must achieve best consideration i.e. achieve the best price for the disposal

**7.1.6.** However, the council is able to dispose of land at less than best consideration if the environmental, economic and social well-being of the residents in the local area is improved as a consequence subject to the undervalue being no more than £2million.

**7.1.7.** Furthermore, all disposals must comply with the new Subsidy Control rules. Further legal advice on compliance with these rules will be taken if it emerges at the mini competition stage any subsidy is likely to arise either in the form of viability gap funding or other funding to develop affordable housing or disposal of any land at an undervalue. Where a subsidy is to be made available then:

**7.1.7.1.** this will only be done where it would be compliant with UK subsidy control law; and

**7.1.7.2.** where appropriate additional clauses and/or documentation for the subsidy are prepared to document the subsidy and the parties' respective obligations with regard to it.

**7.1.8.** Legal advice on compliance with statutory obligations and regulations will be required in respect of the disposal of each site as terms are agreed with selected bidders on the HD framework.

## **7.2. Finance**

**7.2.1.** The aim of the framework will be to achieve a capital receipt or a percentage of the rental yield to provide a revenue stream for the council, or a mixture of both.

**7.2.2.** This will be determined on a site by site basis and will be confirmed before a final decision is made on each scheme

**7.2.3.** It is anticipated that any rental yield received by the council will be equivalent or higher than the sum of a capital receipt, however it is likely to be a deferred payment to the council over a set period of time.

**7.2.4.** The disposal of the Vernon road site is subject to the Secretary of State for Education's consent to dispose of playing fields land is



required under Section 77 of the School Standards and Framework Act 1998.

- 7.2.5.** This outlines a Government expectation when an application is made for such consent that any proceeds received from the sale of land which is designated as playing fields is re-invested into local education infrastructure. In the first instance for the purposes of sport and recreation and then should these needs be met funding can be spent on other education projects.
- 7.2.6.** Due to the requirement for reinvestment in sport on the Vernon School site, it is anticipated that a capital receipt will be sought for this particular scheme and any ringfenced capital will be allocated to Education services in line with the requirements of s77 of the School Standards and Framework Act 1998.
- 7.2.7.** The Council has the ability to make use of Section 106 financial contributions to purchase land which will be fed through the Housing Development Framework. Due to this funding arrangement, sites will need to provide 100% affordable housing schemes on this land.
- 7.2.8.** The Housing Development Framework has potential to impact on the Medium-Term Financial Strategy (MTFS). This could include a reduction in holding costs for sites currently owned by the council, a streamlining of costs for care services, as well as providing income streams for the council's land assets. If adjustments are required or anticipated to the MTFS, these will be implemented at the appropriate time.

### **7.3. Policy**

- 7.3.1.** Affordable housing in Cheshire East plays a fundamental role in realising the ambition to deliver jobs-led growth and sustainable vibrant communities. The ambition to increase the level of affordable housing is set out both within the Council new Corporate Plan 2021-25 and the Housing Strategy 2018-2023.

### **7.4. Equality**

- 7.4.1.** Affordable housing in Cheshire East plays a fundamental role in realising the ambition to deliver jobs-led growth and sustainable vibrant communities.

### **7.5. Human Resources**

- 7.5.1.** There are no direct implications for human resources.

## **7.6. Risk Management**

- 7.6.1.** The establishment of a Framework will enable Council to undertake mini competitions with a select number of organisations. The risk is that following the mini tender process the submissions do not provide offers which meet the requirements of the Council. There is however no requirement for the Council to proceed and can use alternative methods to dispose of the sites should they wish to.

## **7.7. Rural Communities**

- 7.7.1.** There are no direct implications for rural communities, however some of the sites may be within rural locations which will enable local residents to access housing to enable them to continue to reside within their local communities. These sites would be subject to the appropriate local planning policies.

## **7.8. Children and Young People/Cared for Children**

- 7.8.1.** Poor housing can have a negative impact on our children's wellbeing. Increasing affordable housing provision will ensure that families have access to appropriate housing options and reduces the risk of having to reside in temporary accommodation.

## **7.9. Public Health**

- 7.9.1.** Providing decent living accommodation will benefit some of our vulnerable residents' mental and physical wellbeing and reduce demand on health and social care services. There are no direct implications for public health.

## **7.10. Climate Change**

- 7.10.1.** The Council has committed to becoming carbon neutral by 2025 and to encourage all businesses, residents, and organisations in Cheshire East to reduce their carbon footprint.
- 7.10.2.** Building sustainability is a requirement within the specification and design of the homes, ensuring that every opportunity to reduce building operating costs are evaluated in order to tackle fuel poverty and tackle climate change.

**Access to Information**

Contact Officer:	Karen Carsberg – Head of Housing Karen.carsberg@cheshireeast.gov.uk 01270 686654
Appendices:	Appendix One – Sites (Part 2) Appendix Two - All Elected Members Briefing - HDF
Background Papers:	Previous Cabinet reports – Housing Development Framework 5 <sup>th</sup> May 2020 Former Vernon School – 8 <sup>th</sup> October 2019