

## Cabinet

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**Date of Meeting:** 05 May 2020

**Report Title:** Procurement of a Housing Development Framework

**Portfolio Holder:** Councillor Nick Mannion, Environment and Regeneration

**Senior Officer:** Frank Jordan - Executive Director - Place

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### 1. Report Summary

- 1.1. Cheshire East Council's Economic and Environment Strategies set out the vision for "Place". They articulate the ambition to create inclusive and suitable growth in the Borough.
- 1.2. A fundamental element of achieving this is delivering the right type of housing in the Borough.
- 1.3. We cannot however rely solely on the market to deliver housing growth and Cheshire East Council have been considering mechanisms to firstly increase the provision of sustainable and affordable homes, for rent and homeownership, as well as providing the ability to generate a revenue stream to support our Medium Term Financial Strategy.
- 1.4. This also provides an opportunity to influence the design, type and quality of new homes, ensuring that the right mix of housing tenure is delivered to meet identified housing need.
- 1.5. This report outlines our journey so far and the options considered, putting forward a recommendation to approve the procurement of a Housing Development Framework.

## **2. Recommendations**

### **2.1. That Cabinet**

- 2.1.1. Approves the procurement and establishment of a Housing Development Framework to commission the development of mixed tenure housing provision on identified Council owned land.
- 2.1.2. Delegates authority to the Executive Director Place in consultation with the Portfolio Holder for Environment and Regeneration to:
  - 2.1.2.1 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.
  - 2.1.2.2 To identify and approve appropriate Council owned land assets to be taken through the Framework.
  - 2.1.2.3 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.

## **3. Reasons for Recommendations**

- 3.1. There are a number of factors which have contributed to the decision to seek authority to develop affordable housing using the Council's land holdings and these include both social and financial influences set out below.
- 3.2. We currently have 8,548 applications on the social housing waiting list, of which 1,838 are within the Council's 'reasonable preference' categories (high priority). Stock turnover is on average 1600 units per annum and whilst we are seeing high levels of affordable housing delivered through Section 106 agreements (727 in 2018), this is still not keeping pace with the increased number of applicants registering for social housing, which on average is 500 new applications per month. Supply is not meeting the increasing demand for social housing provision.
- 3.3. We rely on the private rented sector to help us address housing need, however we are now seeing a reluctance from private landlords to house those in receipt of Universal Credit as the tenant has to be 8 weeks in

arrears before a landlord can apply for a direct payment. Landlords are also reluctant in some areas to rent their properties out at the Local Housing Allowance rate, which means that some properties for those in receipt of benefits are unaffordable.

- 3.4. Affordability continues to be a barrier to accessing housing for sale. In 2018 the median house price in Cheshire East was 7.95 times the median gross annual earnings. This is significantly higher than the North West average of 5.86 and is only slightly below the national average of 8.00. Median house prices also differ across the authority with a median house price in Crewe of £136,000, Macclesfield £190,000, Sandbach £225,000 and Wilmslow £370,000. In some of our rural areas this increases to over £400,000 in Alderley Edge and Bunbury to £680,000 in Prestbury (source ONS published in 2019)
- 3.5. Access to the private rented sector is becoming increasingly difficult with a minimum income of £26,200 required to meet the average private rent in Cheshire East. Again there are disparities across the authority with an income requirement of £35,000 to meet the average private rented 2 bedroomed property in Knutsford (source Savills)
- 3.6. Due to the benefits cap larger families are now struggling to access the private rented sector. They are very much reliant upon social housing, however there is limited larger social housing stock and families are either left in properties which are overcrowded or are unable to pay the levels of rent.
- 3.7. There is an identified need for specialist affordable housing provision to meet the needs of some of our most vulnerable customers, who may have been placed out of area due to the limited housing options currently available within the authority area. Providing a bespoke housing offer within Cheshire East can bring forward potential service efficiencies as well as providing a housing offer close to social networks.
- 3.8. Direct sale of Council owned land and assets to the market reduces the ability to be in control of the type and tenure of the units developed on the site, this can only be achieved via a procurement process. Whilst it could be argued that the disposal of the sites would bring forward a large capital receipt, which could be utilised on other priority areas, and the market would provide the housing, consideration needs to be given to the long-term financial returns and social aspects, which could be achieved through the framework.

3.9. The ability to intervene in the market and bring forward further housing provision will also enable the Council to:

- Contribute towards the housing supply across the Borough in order to address identified housing need, including specialist housing provision and older persons housing provision.
- Support our economic ambition to increase the levels of working age professionals living in the area.
- To reduce the current use and cost of temporary accommodation.
- Have the potential to provide a revenue stream for the Council as opposed to a one off capital receipt.

3.10. This will contribute towards the outcomes set out within our Economic Development Strategy, which highlights the need to provide the right housing offer to support the Council's economic ambition.

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

4.1. A variety of mechanisms have either been 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 options included the following and are outlined further with **Appendix One**:

- Direct disposal to the market
- The individual procurement of assets
- The development of a Local Housing Company
- The establishment of a Joint Venture
- Establishment of a Cheshire East Council Housing Development Framework (recommended option)
- Direct development through a Housing Revenue account or General Fund

4.2. Independent advice was commissioned to enable us to consider the options. What was evident from the work undertaken was that in order for certain option to be a viable, a volume of land to enable the delivery of between 300 to 500 units would be required. It also requires the development of mixed tenure sites as the development of affordable rented provision in isolation would not provide the yields in order to make it financially viable to the market.

4.3. When considering the available land assets it has become apparent that we do not have the availability of land to justify the development of a complex

vehicle, which would require significant investment along with additional specialist expertise. Our Strategic Land holdings form part of a wider investment strategy which is required to provide funding for improved infrastructure requirements and to supplement the Council's capital budget. Therefore we only have smaller land holdings, which could be taken forward for the provision of affordable housing.

- 4.4. The options have been outlined including the advantages and disadvantages and are presented in **Appendix One** which have been discussed in detail with the Portfolio Holder for Environment and Regeneration.

## **5. Background**

- 5.1. There is a business case to explore the options to utilise some of our land assets for mixed tenure housing schemes, which will not only address some of our housing need but will also provide a mechanism to generate revenue for the Council.
- 5.2. To date we have tested direct sale to the market with a condition and individual procurements, both having their advantages and disadvantages.
- 5.3. Without significant land holding to warrant the development of a more complex delivery vehicle then the best option would be the procurement of a Housing Development Framework. This would alleviate the need to undertake individual tendering exercises on an individual basis for each site. It would however provide the Council with the ability to control the type of provision to be developed on the land and have the potential to bring forward either a capital receipt or an ongoing revenue stream. The requirements for the developments would be set out within the tender documentation put to the framework and may vary from site to site.
- 5.4. The Framework would be procured in accordance within the Council's Contract Procedure and EU rules. The Council would be looking to appoint in the region of eight Housing Providers who have the experience and expertise to develop a range of affordable and market housing products to meet the identified housing need for the area and add social and environmental value. We currently have 24 developing Registered Housing Providers operating across Cheshire East. To include them all in a framework agreement would not be feasible and some have only recently started to develop in the area and some are very specific in relation to the type of properties they will consider.

- 5.5. The Framework would be in place for a period of 4 years and enable the Council to conduct mini competitions for the development of individual or packaged parcels of Council owned land. We would not have to provide a guarantee of the volume of sites to be procured through this route nor be contractually locked into this arrangement should a more viable alternative route be identified.
- 5.6. Cheshire East Council currently holds a number of financial contributions, which have been secured through s.106 Agreements in lieu of affordable housing provision on new development sites. In July 2014, Cabinet approved a process to award these contributions which included the use on Council led developments. Through the Framework there will be the ability to contribute financial contributions in line with the terms of the Section 106 agreement in order to provide additionality or provide gap funding where there are viability issues on sites.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1. The sale of developed or undeveloped land does not constitute a public works contract. However, it is generally accepted that any authority led development will generally result in the award of a public works contract which has to be procured in accordance with 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.
- 6.1.2. The Regulations allow local authorities to enter into Framework Agreements with multiple suppliers, following a competitive tendering process, and thereafter the Council can choose to call off contracts under the Framework Agreement following a further mini competition between the suppliers appointed to the Framework.
- 6.1.3. The Framework Agreement would not contain any guarantees of work volumes to the appointed suppliers and could be utilised with other options.

- 6.1.4. The Council would use its powers pursuant to Section 123 of the Local Government Act 1972 to dispose of the land through the Framework. The Council would have to demonstrate best consideration for any disposals or meet the requirements of the General Disposals Consent and (where necessary) seek the permission of the Secretary of State to dispose at an undervalue.
- 6.1.5. Under section 123 of the Local Government Act 1972, a local authority has the power to dispose of land. The main caveat to this power is that the Council must not do so for “a consideration less than the best that can be reasonably obtained”. This is interpreted as being the best price achievable in the open market.
- 6.1.6. It is possible for Local Authorities to dispose of land at less than best consideration where the unrestricted value of the land is less than £2million, and to do this the Council must demonstrate that value is being received in other ways that justify the monies foregone to the public purse. For example the provision of affordable housing.
- 6.1.7. All disposals must comply with the European Commission’s State aid rules. When disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land, in addition to this making s106 funding available to supplement the development of the Council’s land could also come within the remit of State aid. In any such cases further legal advice will be obtained at the outset.

## **6.2. Finance Implications**

- 6.2.1. Disposing of land directly to the market would bring forward a capital receipt and would demonstrate best value, however if land is disposed of for the provision of affordable housing then the land value would be reduced and therefore this will have an impact on capital receipts. Consideration has to be given to the social value of providing affordable housing.
- 6.2.2. The costs associated with the development of the framework approach, which would predominately be legal costs would be covered by the existing Strategic Housing revenue budget.

## **6.3. Policy Implications**

- 6.3.1. Affordable housing in Cheshire East plays a fundamental role in realising the ambition to deliver jobs-led growth and sustainable vibrant communities. It contributes towards our five Residents First Outcomes.

Affordable housing creates balanced, sustainable communities whilst driving forward improved health and well-being outcomes for modest-income households. Moreover, it provides the vital impetus for economic activity and raising aspirations. The provision of affordable housing equips an area with the long-term capacity for labour and economic fluidity that will attract and develop business growth.

- 6.3.2. The delivery of affordable housing is a priority set out within the 2018-2023 Housing Strategy.

#### **6.4. Equality Implications**

- 6.4.1. Affordable housing provides an opportunity for some of our groups with protected characteristics to access decent, affordable accommodation.

#### **6.5. Human Resources Implications**

- 6.5.1. There are no direct implications for human resources.

#### **6.6. Risk Management Implications**

- 6.6.1. Failure to procure works in accordance with the Public Contracts Regulations 2015 and the Council's Finance and Contract Procedure Rules would leave the Council open to challenge and in breach of regulations, with a subsequent reputational impact.
- 6.6.2. The contract would be advertised on the North West Chest, and all companies expressing an interest in the framework would be invited to tender. The tenders would be evaluated using a range of published criteria based on quality, delivery, customer care, safeguarding and social value that can be secured for residents, as well as price, in order to establish the most economically advantageous tender.

#### **6.7. Rural Communities Implications**

- 6.7.1. 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.

#### **6.8. Implications for Children & Young People/Cared for Children**

- 6.8.1. Poor housing can have a negative impact on our children's well being. 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.

## **6.9. Public Health Implications**

6.9.1. Providing decent living accommodation will benefit some of our vulnerable residents' mental and physical wellbeing and reduce demand on health and social care services.

## **6.10. Climate Change Implications**

6.10.1. 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.

6.10.2. Building sustainability is a consideration in 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.

## **7. Ward Members Affected**

7.1. All wards

## **8. Consultation & Engagement**

8.1. A Soft market testing was undertaken by Engine of the North with Housing Builders and Registered Housing Providers to establish the best approach to take when considering mechanisms to develop affordable housing.

## **9. Access to Information**

9.1. Appendix One

## **10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

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