

CABINET

17th November 2020

PRIORITISED PROGRAMME FOR SPENDING OF COMMUTED SUMS FOR AFFORDABLE HOUSING

Report of the Strategic Director for Places

Strategic Aim:	Delivering sustainable development Protecting the vulnerable	
Key Decision: Yes	Forward Plan Reference: FP/250920	
Exempt Information	Appendix A of this report contains exempt information and is not for publication in accordance with Part 1 of Schedule 12A of the Local Government Act 1972. Further details can be seen in paragraph 14.1 below.	
Cabinet Member(s) Responsible:	Mr G Brown, Portfolio Holder for Planning and Finance	
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Ward Councillors	Various	

DECISION RECOMMENDATIONS

That Cabinet:

1. Approves the grant applications for the sites at Derwent Drive in Oakham and Cottesmore Road in Uppingham as shown in Appendix A, subject to Planning and the conclusion of satisfactory funding agreements.
2. Approves the principle of using affordable housing commuted sums towards the site of the former Brooke Road allotments in Oakham shown in Appendix A, subject to a further report to the Cabinet once further information is available.

1 PURPOSE OF THE REPORT

- 1.1 To endorse the proposed programme for spending monies collected from developers for off-site affordable housing provision through the Rutland Affordable Housing Fund.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 Cabinet approved report no. 68/2020 on 19 May 2020. This set out the bidding arrangements for approximately £930,000 held by the Council, which had been collected from developers for the provision of off-site affordable housing.
- 2.2 Bids were subsequently received from two housing associations for a total of four new build sites. The Council made an internal bid for the purchase of empty properties in Edith Weston.
- 2.3 Each bidder's total for fitness for purpose was assessed out of a maximum of 40 points. Value for money was considered alongside this. Information on the process had been sent as part of the bidding pack to six housing associations interested in developing in Rutland.
- 2.4 One rural scheme was contrary to planning policy and was much too large to meet local need.
- 2.5 The Council's bid to purchase empty properties did not constitute value for money as the capital available would have only bought a single property, without a mechanism being established to borrow against future rental income.
- 2.6 The bid evaluations are summarised in Appendix A.
- 2.7 It is therefore proposed, subject to negotiations and planning consent, that the following are funded:

Longhurst (formerly Spire)

- Site in Oakham £80,000 29 points
- Site in Uppingham £50,000 28 points

- 2.8 Both these sites above are disused garage sites and have had significant viability challenges which the Rutland Affordable Housing Fund is needed to overcome. This would provide substantial additionality, including the provision of one property suitable for wheelchair users. The sites are expensive compared to larger sites as there are limited economies of scale and they still require appropriate management / supervision per site to ensure they are a safe place to work.
- 2.9 The next site has a higher level of risk, linked to the housing association not yet owning the land. It is recommended that Cabinet is minded to approve the principle of funding, subject to further information regarding the future ownership and developer arrangements for this site and subject to negotiations and planning consent. It is recommended that this is the subject of a further report to Cabinet once these details are finalised.

Platform (formerly De Montfort / Waterloo)

- Site in Oakham £650,000 24 points

2.10 In line with the May Cabinet report, the matter has been taken back to this Cabinet meeting for a decision. It is noted that Cabinet, on 31 July, resolved (minute 40): “That the Strategic Director of Place in consultation with the Section 151 Officer and Deputy Director Corporate Governance, and the Portfolio Holders for Planning and Resources be able to make decisions relating to the expenditure of Section 106 monies up to a value of £500,000 to deliver infrastructure and community facilities in accordance with the provisions of each individual obligation”.

3 CONSULTATION

3.1 Negotiations will be held with the successful bidders to help ensure that the benefits of the scheme are maximised and address identified local needs. Consultation with the public will be through the Planning process.

4 ALTERNATIVE OPTIONS

4.1 The Council could fund fewer bids, but this would reduce the affordable housing provided in the short- to medium-term.

4.2 The Council could fund more bids, but the two bids which are not recommended are not viable.

5 FINANCIAL IMPLICATIONS

5.1 The Council holds £932,000 in developer contributions, of which £701,000 can only be spent in Oakham and Barleythorpe because of the terms of the legal agreements. The successful bids, including the bid for the larger Oakham site if selected, would make up £780,000 of this. The remainder of the sum will be held until a future bidding round, once the overall amount held has built up sufficiently to make a further round worthwhile. *Ad hoc* opportunities may also be considered and brought to Cabinet or, if they are for £500,000 or less, considered by the Strategic Director of Places under the delegated powers referred to in paragraph 2.10.

6 LEGAL AND GOVERNANCE CONSIDERATIONS

6.1 The Council is able to make grant payments to housing associations for rented accommodation under sections 24 and 25 of the Local Government Act 1988, using “The General Consent under Section 25 of the Local Government Act 1988 for Financial Assistance to any Person 2010”. As the legislation specifically permits this and the Council does not own the asset, this is different from a contract agreement. It will be down to the provider to design and deliver the affordable housing. The Council will still need to ensure that the process is fair and constitutes good value for money and that the payment remains within the exemptions in the State Aid rules.

6.2 Making a substantial grant available to a housing association potentially raises State Aid implications, because public funds are being used to support a specific housing association within the overall market of social housing providers. However, provided that certain conditions are followed, the grant arrangement will

be compatible with State Aid rules. This is because the grant is intended to support an organisation which is helping the council provide public service functions (in this case, social housing) or what is termed in EU law, “Services of General Economic Interest” (SGEIs)

- 6.3 Following the ECJ decision in Altmark (2003) and an EC Decision on SGEIs in 2011, it has been established that it is not necessary for the council to have undertaken a competitive process to select a particular housing association provider to work with, but it is necessary for the grant to be used to fund the cost of public service functions and to be transparently accounted for.
- 6.4 One way that this can be done is for a robust grant agreement must be put in place, for example, giving the council nomination rights over the properties for a substantial period and putting the provider under an obligation to repay the funds should there be any attempt to dispose of the properties or otherwise make them unavailable for social housing, during the grant period.
- 6.5 A grant agreement would be put in place to support this expenditure, with appropriate grant conditions attached to facilitate the provision of the Council’s desired outcomes and timescale for the funding, as well as the State Aid requirements.

7 DATA PROTECTION IMPLICATIONS

- 7.1 A Data Protection Impact Statement has not been carried out because the funding of the projects in itself will involve little risk to personal data.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 An Equality Impact Assessment (EqIA) has been completed. Meeting housing need inevitably means deciding what types of housing are a priority in the context of overall need, supply and resources. Any differential impact is proportionate and justified.

9 COMMUNITY SAFETY IMPLICATIONS

- 9.1 The developments will make use of under-used land and reduce the chance of these areas being used for anti-social behaviour. ‘Sustainability – social’ was one of the assessment criteria used for the bids.

10 HEALTH AND WELLBEING IMPLICATIONS

- 10.1 Housing is one of the ‘wider determinants of health’. Providing good quality housing for people with housing need is likely to promote their wellbeing.

11 ORGANISATIONAL IMPLICATIONS

- 11.1 Environmental implications
- 11.2 Any environmental implications will be addressed through the planning process.

12 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 12.1 The Council holds a substantial amount of money collected from developers for the provision of off-site affordable housing. It is important for the Council to spend these resources, not only for meeting immediate housing need but also to help justify holding and collecting these sums in the future.
- 12.2 The recommendations will help to enable the development of over 40 affordable homes for those in need, subject to planning consent and additional funding to housing associations from Homes England.

13 BACKGROUND PAPERS

- 13.1 There are no additional background papers to this report.

14 APPENDICES

- 14.1 Exempt Appendix – Appendix A is marked as “Not For Publication” because it contains exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, namely Information relating to the financial or business affairs of any particular person (including the authority holding that information).

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