

DECISION-MAKER:	CABINET COUNCIL		
SUBJECT:	FORMER OAKANDS SCHOOL SITE DEVELOPMENT		
DATE OF DECISION:	16 JULY 2019 17 JULY 2019		
REPORT OF:	CABINET MEMBER FOR HOMES AND CULTURE		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Tina Dyer-Slade	Tel: 02380833597
	E-mail:	Tina.dyer-slade@southampton.gov.uk	
Director	Name:	Denise Edghill	Tel: 023 80834095
	E-mail:	Denise.edghill@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

Confidential Appendix 2 and 3 contains information deemed to be exempt from general publication based on Category 3 and 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules. In applying the public interest test this information has been deemed exempt from publication due to confidential sensitivity.

BRIEF SUMMARY

The purpose of this report is to seek approval to proceed with the development of the Former Oakland's Community School site which will provide 103 new homes. The aim is for all of these to be affordable homes, there will be a mix of council rented and shared ownership properties. The Ministry of Housing, Communities and Local Government defines social and affordable homes as social, affordable and intermediate which includes shared ownership. The shared ownership element of the properties will be privately owned. This development will be funded from a mix of council borrowing, right to buy income, the upfront sale of the shared ownership properties and if required it would be possible to sell some of the units outright. Homes England (HE) funding is also being sought, however this is not included in the current financial appraisal. The approach outlined in this report supersedes the recommendations of the 20th March 2018 Cabinet report which outlined the option that was available at that time to maximise the number of affordable homes on the site.

The scheme now has planning consent and it is the intention to procure the works as a design and build contract with a direct appointment through a framework agreement with a building contractor. Approval is now sought to add £18.3m to the Housing Revenue Account capital programme with authorisation to spend and to give delegated authority to the Director of Growth following consultation with the Cabinet Member for Homes and Culture, the Service Director Finance and Commercialisation and the Service Director Legal and Governance to enter into contract with the building contractor.

CABINET

RECOMMENDATIONS:

	(i)	Subject to the financial approvals of Council, to delegate authority to the Director of Growth following consultation with the Cabinet Member for Homes and Culture, the Service Director Finance and
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		<p>Commercialisation and the Service Director Legal and Governance to:</p> <ul style="list-style-type: none"> • deliver a scheme in accordance with the financial parameters of this report • approve the submission to Homes England • agree detailed terms and conditions • enter into a contract with a construction company • appoint a specialist Shared Ownership expert to deal with sourcing purchasers and delivering sales • take any other actions required to give effect to this decision • agree the final tenure mix prior to practical completion
COUNCIL		
RECOMMENDATIONS		
	(i)	To appropriate the Former Oaklands School site from the General Fund to the Housing Revenue Account in order to develop the scheme outlined in this report.
	(ii)	To approve the addition of £18.3m to the Housing Revenue Account Capital Programme, and the expenditure of £18.3m on the Former Oakland's School Site to deliver a scheme of affordable council rented and shared ownership properties. To be funded from £10.9m borrowing, £2.9m retained Right-to-Buy capital receipts and £4.5m from the sale of the initial percentage of shared ownership properties.
REASON FOR THE REPORT RECOMMENDATIONS		
1.	<p>In October 2018 the government implemented the removal of the Housing Revenue Account (HRA) borrowing cap to create the opportunity for councils to consider this as a route to the development of new homes. This report seeks approval to use this borrowing option in addition to retained Right-to-Buy income plus any other grant income that can be secured to build 103 homes based on the financial appraisal assumptions included within Appendix 3. Approval is now sought for the full capital budget to proceed with building out the scheme, and to enter into contract with a contractor to deliver the project as outlined in this report under a JCT Design & Build contract. These homes will contribute toward the target of 1000 council owned homes which the council is committed to delivering by 2025.</p>	
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED		
2	<p>Do Nothing – this is not a recommended option. The site of the former school is vacant (the previous school buildings have been demolished) with temporary hoarding, the site needs to be developed, new homes provided and the appearance of the site improved as a result.</p>	
3	<p>Sale of the vacant site for maximum capital return– this would secure a capital receipt for the council, but would not maximise the number of affordable homes that could be delivered on the site, or the requirement to develop more council owned homes. This may involve a longer programme to deliver homes on the site as this would need to include the period of time involved in securing a sale.</p>	

4	Sale of the developed site with 103 homes for maximum capital return. This would not meet the requirement of securing council owned homes.
5	Sale of the Site for less than best value for the provision of 100% affordable homes – this would secure a significantly reduced capital receipt and would secure affordable homes, but not council owned homes. This may involve a longer programme to deliver homes on the site as this would need to include the period of time involved in securing a sale.
6	A Joint Venture – the route to enter into a joint venture with a development company or other partner would not maximise the number of affordable or council owned homes on the site and would also take a significantly longer period of time to implement because of the process involved with selecting a partner and agreeing terms.
7	Sale and Lease back – this option involves an external investor funding the development in return for a rental payment over a period of 20-40 years, it relies on a mix of affordable and market rent properties. The model does not allow for Right- to- Buy to apply and there would need to be in place an independent housing company to hold and manage the housing stock. This is a complex arrangement with financial risk, procurement issues and there is no housing company in place at this time. In addition this option does not maximise the number of affordable homes on the site as there would need to be a significant percentage of market rental properties. It also relies on a demand for market rent in the Lordshill area which is not yet proven.
DETAIL (Including consultation carried out)	
8	On the 20 March 2018 Cabinet approved a report to dispose of the Former Oaklands School Site for a less than best consideration in order to enter into a sale and leaseback arrangement with a developer to secure up to 50% affordable homes on the site. At the time this was the recommended approach to secure the maximum number of affordable homes on the site which would transfer to the city council after a 40 year period. This report outlines an approach which will allow the whole site to be affordable with a mix of shared ownership and council owned affordable homes for rent.
9	<p>Planning approval was granted for this scheme in April 2019. There is now a need to move forward with this site for the reasons outlined below.</p> <ul style="list-style-type: none"> • With the removal of the HRA Account borrowing cap in October 2018 there is an opportunity for the council to take this development forward itself. • There are 8,600 families on the housing register and a growing demand for homes in the city. • Over the last few years the number of affordable homes delivered by developers as part of Section 106 agreements has been significantly less than 2014/15. • The site has planning permission, it is vacant, available for development. • There is a need to use retained Right-to-Buy income which would otherwise need to be paid back to the government with interest. • There is an opportunity to use a direct appointment through a framework agreement to enable a start on site in 2019.

	<ul style="list-style-type: none"> • The Affordable HE Funding programme may have some funding that could be applied for and allocated to this scheme but this currently is time limited so the earlier the scheme can be delivered the more likely that funding may be secured. • The approach outlined in this report will enable the collection of council tax substantially sooner than any other option outline in paragraphs 2-7. 										
10	As part of the Autumn Budget 2017 the government confirmed its commitment to delivering 300,000 homes per year and on the 29th October 2018 the HRA borrowing cap was formally removed with the publication of the Limits on Indebtedness (Revocation) Determination 2018. The council proposes using the opportunity created to fund this development using borrowing, right to buy income and the upfront sale of the shared ownership properties, Homes England financial assistance will also be sought if possible.										
11	The housing targets for Southampton are set out in the Southampton City Council Housing Strategy 2016-2025 and the Southampton Core Strategy 2006-2026. This currently states that there is a requirement for an additional 16,300 housing units for the city by 2026. Despite the council owning approximately 16,000 rented properties there is still an urgent need for social and affordable housing with over 8,600 families currently waiting for homes on the housing register.										
12	<p>There is an obligation through the local planning process for developers to build 35% affordable homes as part of any development across the city. In the past the city council has had the opportunity to nominate to these properties from the housing register. Table 1 shows how there has been a significant reduction in affordable properties developed as part of this process and as a result this has reduced the number of nominations that the council has been able to make from the housing register.</p> <p>Table 1. Section 106 properties delivered in Southampton</p> <table border="1"> <thead> <tr> <th>Actual 2014/15</th> <th>Actual 2015/16</th> <th>Actual 2016/17</th> <th>Actual 2017/18</th> <th>Actual 2018/19</th> </tr> </thead> <tbody> <tr> <td>422</td> <td>204</td> <td>156</td> <td>32</td> <td>154</td> </tr> </tbody> </table> <p>This development will significantly increase the number of affordable properties available to those on the housing register.</p>	Actual 2014/15	Actual 2015/16	Actual 2016/17	Actual 2017/18	Actual 2018/19	422	204	156	32	154
Actual 2014/15	Actual 2015/16	Actual 2016/17	Actual 2017/18	Actual 2018/19							
422	204	156	32	154							
13	This site now provides an opportunity to be able to respond to the housing need identified earlier in this report. With planning permission being granted in April 2019 there is an opportunity for the council to proceed with this project using a procurement method which enables an early appointment to be made.										
14	On average between 100-150 tenants exercise their Right-to-Buy their council property each year. The table below shows the number of city council properties that have been sold to tenants over the last 5 years as a result of the Right-to-Buy Scheme.										

Table 2 The number of council properties sold under the Right-to-Buy Scheme

Actual 2014/15	Actual 2015/16	Actual 2016/17	Actual 2017/18	Actual 2018/19
116	110	164	122	105

A proportion of the income from these sales is required to be spent on replacement HRA stock within three years of receipt. If this funding is not spent it has to be returned to the government with interest every quarter of the financial year. The income from Right-to-Buy can only be used to part fund new build homes or the purchases of properties that will add to the councils housing stock. Over the last year this income has been invested in the Potters Court and the Townhill Park projects plus the individual purchase of properties to add into the council stock. The Former Oaklands School site will provide a further opportunity to invest this income. It is estimated that £2.9 million could be invested from this budget preventing the need to return this funding to the government.

15 The procurement route which would deliver the housing units which have been approved through the planning process with the earliest completion date would be a direct appointment of a contractor. This process could result in a start on site in 2019 subject to completion of the contractual arrangements. The Hyde Housing Main Contractor Framework Agreement which the council is eligible to use would allow the direct appointment of a contractor for this project. This framework was procured using an OJEU compliant process and is administered by Hyde Housing Association. All the contractors on this framework have already been through a competitive process in order to be on the framework. The framework specifies the agreed level of overhead and profit for the contractors on the framework. This report recommends the appointment of a contractor as a direct appointment using the framework referred to above.

16 In order to ensure value for money with the design and build contract, the council will use an Employers' Agent who is a cost consultant who will benchmark the cost of the scheme with reference to other comparable cost data. This is an appropriate method of ensuring that the proposed cost of the works is justifiable and commensurate in terms of market norms. This same consultant will be required to certify to the council that the final contract sum agreed represents value for money before entering into contract with the building contractor.

17 Homes England currently has funding available for Registered Providers to contribute as gap funding towards affordable homes, these could be developed for social rent, affordable rent or shared ownership. This Affordable Homes Funding programme presents an opportunity to add grant into the scheme. Since the scheme now has a deliverable planning consent, is already within Council land ownership and is of reasonable scale, it could attract funding. Such funding would be able to produce a greater proportion of rented homes and may allow delivery of Social Rented homes in addition to or instead of the Affordable Rented tenure which is currently being modelled. This funding programme extends until 2022, and whilst it is likely that further

	<p>funding programmes will be announced to follow this current round the timing of this is uncertain. Therefore to maximise the opportunity to use this available funding the council would need to use the most expedient procurement route available. Discussions are ongoing with HE and also the Wayfarer Consortium which provides access to HE funding.</p>
18	<p>Once completed and fully occupied there will be a significant council tax collection for this site. The direct appointment procurement method proposed using a framework agreement should allow this income to be due earlier than the other options outlined in paragraphs 2-7 above.</p>
19	<p>The development will include 103 homes in 2 and 3 storey buildings, with associated access, parking and landscaping. It is proposed that there will be a mix of affordable and shared ownership. The design approach follows the style of the local area including:</p> <ul style="list-style-type: none"> • Semi-detached pairs, short terraces and small blocks of two and three storey apartments • A contemporary style • Use of modern methods to speed up the process and enable the development to minimise disruption to nearby residents • High quality traditional materials for longevity and ease of maintenance • A mixture of roof designs • These energy efficient homes will include a range of features such as Solar PV panels. • Houses will have two parking spaces and flats will have one space with additional guest parking places across the site • Tree removal will be minimised, new tree planting will be carried out on a 2:1 basis leading to an increase of approximately 50 trees • There will be several areas of formal and informal play across the site. • Two properties have been specifically designed to provide improved access for disabled people. • A cycle path will be re-routed through the development.
20	<p>Prior to entering into contract a financial checks will be carried out on the contractor to confirm the financial capacity and stability of the company. NHBC insolvency cover will be obtained and if necessary a Parent Company Guarantee will be requested. Monthly interim payments will be certified by the Employers agent throughout the design and build construction contract period.</p>
21	<p>There is a significant demand for homes for those with adult social care needs in the city and it is proposed that some of the properties on the Former Oaklands School site could be allocated for this purpose. This will result in the properties being exempt from the right to buy pursuant to Schedule 5 paragraph 7,9 and 10 Housing Act 1985.</p>
<p>RESOURCE IMPLICATIONS</p>	
<p><u>Capital/Revenue</u></p>	
22	<p>The total estimated cost of the scheme is £18.3m and it is proposed that this will be funded as outlined in the table below.</p>

Source of Funding	Total £M
Right to Buy	2.90
Capital Receipts (initial sale of shared ownership)	4.50
Borrowing	10.90
Council Resources Requested	18.30

The role of the Employers Agent will be to scrutinise the proposed costs of the scheme so the final contract sum may change. In addition, if there are changes to the employers requirements in the process of finalising the scheme before entering into the contract this will also potentially result in minor changes to the overall cost of the scheme. This report provides delegated authority to the Director of Growth following consultation with the Member for Homes and Culture, the Service Director Finance and Commercialisation and the Service Director Legal and Governance to finalise the details of the scheme and to enter into contract with the building contractor. Any changes to the overall cost of the scheme will be reported back to Cabinet and Council.

23 Developments which consist of 100% Affordable Rent or Social Rent tend not to be financially viable using standard assumptions. Cross-subsidies from other complementary tenures are commonly used to support the delivery of rented tenures. Market Rented tenure, Shared Ownership and Outright Sale are tenure-types which would offer the best opportunity to generate a neutral or positive net present value. Of these, only Shared Ownership is an ‘affordable housing tenure’. This is the tenure-type which this report recommends will be used to support and cross-subsidise the rented tenure product(s) at Oaklands. Shared Ownership has been a popular affordable housing tenure over several years because it allows for an easier entry to the housing ownership market. The purchaser buys a share of the property raising their own mortgage and then pays rent on the balance to the landlord. The purchaser would be allowed to purchase further shares right up to 100% ownership at the residents’ discretion. Development of relevant policies, training and new staff specialisms will be needed to deal with the management of this tenure type. It should however be noted that this product is considered both popular and affordable and does act as a very useful cross-subsidy catalyst for other affordable tenure types

24 A Financial Appraisal has been produced by the council which forecasts (based on a range of assumptions) that the cost of borrowing can be paid back over a 30 year period. The assumptions are summarised in the Appendix 3. The financial appraisal is based on the optimum mix of affordable rental and shared ownership to achieve a neutral net present value without relying on additional external funding. The precise tenure ratio will be dependent on the scheme to attract external funding from Homes England. Some costed alternative options are included in Appendix 2.

25	In addition to the cost of construction the project includes a number of other cost forecasts including the fees associated with an Employers Agent, staff time, legal fees, sales allowance for the shared ownership and a contingency.
<u>Property/Other</u>	
26	This scheme is a brownfield development on the site of the former Oaklands Community School. The new homes will come with a 12 month defects period, NHBC guarantee, and some individual elements of the construction will carry longer warranty periods.
27	The homes will be added to the councils housing stock and will be managed by the housing management team and maintained under the council's asset management process. The shared ownership units will also be managed by housing but the sales process will be outsourced to an appropriate agency.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
28	The legislation that allows the council to build and acquire homes is Section 9 and 17 of the Housing Act 1985.
29	Section 11(6) of the Local Government Act 2003 relates to the Council's ability to retain and use Right-to-Buy receipts to fund affordable housing.
30	The legislation that allows the council to appropriate the land into the Housing Revenue Account from the General Fund is Section 19 Housing Act 1985. Land appropriation is carried out by a transfer of debt equal to the valuation of land from the General Fund to the HRA to reflect the value and benefit of the asset transfer.
<u>Other Legal Implications:</u>	
31	Southampton City Council owns the freehold for the site to be used for this development and outlined in Appendix 1. Investigations carried out so far have not found any covenants, third party rights, contracts or rights of way on the site that would affect or restrict house building. The land is currently held by the General Fund and will need to be appropriated to the Housing Revenue Account.
32	Using an OJEU compliant framework is a compliant method of procurement, and a direct award call off mechanism can be used as long as it falls within the parameters and complies with the process which is set out in the framework agreement. The Hyde Main Contractor Framework Agreement is an OJEU compliant framework which allows for a direct appointment. The Employers Agent will be appointed through the Wayfarer Framework which is also an OJEU compliant framework which allows for a direct appointment.
33	This project will include the granting of affordable rented properties the council needs the approval from Homes England and in order to seek this permission the council should have a policy in place. This is currently under development.
34	Legal Services will also consider the use of HRA funds for this particular project to ensure government guidance and the Council's S11 (6) agreement are complied with.

35	<p>In taking this decision Members must be aware of their obligations under section 149 Equality Act 2010. This section contains the Public Sector Equality Duty (PSED). It obliges public authorities, when exercising their functions to have ‘due regard’ to the need to :</p> <ul style="list-style-type: none"> • Eliminate discrimination, harassment and victimisation and other conduct which the Acts prohibits; • Advance equality of opportunity; and • Foster good relations between people who share relevant protected characteristics and those who do not. <p>The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p> <p>Members are advised to read the Equality Safety Impact Assessment in Appendix 4.</p>
RISK MANAGEMENT IMPLICATIONS	
36	<p>The identification of risks and the development of the risk register is under way. The risk register will continue to be further developed, refined and reviewed prior to going into contract with the building contractor and then regularly throughout the project. It is not always possible to anticipate all the risk that will be experienced throughout a project but by employing experienced quality contractors and professionals to manage and monitor the project this seeks to mitigate the risks involved. The detailed risk register will be reviewed prior to the delegations outlined in the recommendations being implemented.</p>
37	<p>Through the provision of a design and build contract the majority of risks associated with the construction are passed to the contractor.</p>
38	<p>The financial risks associated with this project will extend for the full 30 years over which the borrowing will extend. The assumptions listed in Appendix 3 are those that have been used in the financial appraisal, the basis on which these have been used is also listed.</p>
POLICY FRAMEWORK IMPLICATIONS	
39	<p>The proposal in this report will deliver new affordable homes in line with the Southampton City Council Housing Strategy 2016-2025, they will also contribute towards the targets in the Core Strategy. The Southampton City Council Core Strategy Adopted version January 2010 in policy CS4 outlines the target to provide an additional 16,300 homes to be provided between 2006 and 2026. The Planning Authority monitoring report April 2015 – March 2016 says that the target of 16,300 homes will be replaced with 19,450 homes needed between 2011 -2034 in the New Emerging Local Plan</p>
40	<p>The former Oaklands School site is included in the Strategic Housing Land Availability Assessment (March 2013). The purpose of the SHLAA is to:</p> <ul style="list-style-type: none"> • Identify sites with potential for housing • Assess how many houses/flats might be developed on a site • Assess when they are likely to be developed

KEY DECISION?	Yes	
WARDS/COMMUNITIES AFFECTED:	Coxford	
<u>SUPPORTING DOCUMENTATION</u>		
Appendices		
1.	Site Plan	
2.	Financial Options	
3.	Financial Assumptions	
4.	Equality Safety Impact Assessment	
Documents In Members' Rooms		
1.		
Equality Impact Assessment		
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		Yes
Data Protection Impact Assessment		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		No
Other Background Documents		
Other Background documents available for inspection at:		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
1.		