

Report to CABINET

Disposal of vacant land at Derker, St James

Portfolio Holder:

Councillor Hannah Roberts - Cabinet Member for Housing

Officer Contact: Emma Barton, Executive Director of Place and Economic Growth

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Ext. 4134

21st March 2022

Reason for Decision

The purpose of this report is to seek Cabinet approval for the Council to dispose of three plots of vacant land in Derker (St James Ward). The sites will be developed by Hive Homes who will build 134 affordable and market sales homes. 44 affordable homes will be constructed to carbon neutral standards and 90 market sale homes will be constructed using low carbon standards. The development will be gas free.

Recommendations

Cabinet is requested to approve that:

- The Council disposes of three vacant plots in Derker by way of a direct land sale to Hive Homes.
- The Brownfield Housing Land Grant agreement for Derker is completed between the Greater Manchester Combined Authority (GMCA) and Hive Homes.

Cabinet is asked to delegate authority to the Director of Legal Services or their nominated representative to sign and/or affix the Common Seal of the Council to all contractual documentation and associated or ancillary documentation referred to above and/or required to give effect to the authorisations, delegations and recommendations in this report.

Disposal of vacant land at Derker, St James.

Cabinet

21st March 2022

1. Background

1.1 There are a number of vacant sites in Derker that were cleared as part of the Housing Market Renewal Programme and have remained vacant for over 10 years. The sites include a number of individual Council owned plots totalling approximately 4 hectares and cover land at the former Cromford Mill, Abbottsford Road and former Derker Hotel site, London Road and Evelyn Street, as shown at Appendix 1.

2. Brownfield Housing Land Grant

2.1 In July 2020 the Greater Manchester Combined Authority was awarded an initial allocation of £81.1 m over a 5-year period following a Government announcement with regards to a national pot of £400 m Brownfield Housing Land Fund (BHLF).

2.2 The Ministry of Communities, Housing and Local Government (MCHLG) commenced a further bidding round in August 2020 for the remaining 10% of the £400 m allocated as BHLF grant. The £40 m was retained by MCHLG as a competitive element to help support the most ambitious projects. The focus of the bidding process and assessment was on identifying and supporting those Mayoral Combined Authorities that could demonstrate they have ambitious proposals and are ready to receive funding and where the funding could be utilized within 2 years. The grant for Derker was funded from this '10%' pot and in order to complete the funding agreement, a series of tight the milestones outlined in Para 2.4 must be met.

2.3 The BHLF provides grant support to bring forward residential development on brownfield sites. The grant can be used to address remediation issues, access works or service diversion and provision required in order to make sites deliverable. The funding cannot be used as revenue.

2.4 In September 2021, Cabinet approved that a provisional BHLF allocation for the sites in Derker of up to £2 m should be accepted. Derker has capacity for circa 150 homes and the grant would be used to help support zero carbon/highly energy efficient housing. The funding needs to be spent (i.e. works completed up to the value of the grant) by March 2023 and in order to spend the grant the following development milestones have been agreed with GMCA. Whilst there is some flexibility with the milestones up to March 2023, if the project does not progress in accordance with the dates below, there is a risk the funding will be lost.

- Cabinet approval to dispose – March 2022
- Planning application submitted – June 2022
- Start on site – November 2022
- Works (to value of the grant) completed – March 2023
- Housing completed – early 2025

2.5 In order to achieve these tight deadlines, and based on advice from CBRE, it is proposed that the BHLF Grant Agreement should be completed directly between GMCA and Hive Homes. This approach has no financial impact on the council, as the grant would have subsequently been novated over to the developer partner in its entirety in any event.

3. Current Position

3.1 Delivery options

3.1.1 CBRE were appointed in September 2020 to prepare a development brief and provide delivery strategy and developer selection advice to the Council for the proposed developments at Derker and Southlink in order to meet the requirements of the BHLF Grant Funding timetables.

3.1.2 The CBRE Advice explored three options for bringing the site forward for development which were:

1. Direct development by the Council.
2. Procurement of a private sector development partner under the Public Contract Regulations 2015.
3. Direct Land sale to a Preferred Developer.

The first option was discounted because of the risk it would place on the Council and the significant resources, both expertise and finance, that would be required.

A fully compliant procurement exercise to appoint a developer partner in accordance with the Public Contracts Regulations (PCR) 2015 through a competitive tendering process is a tried and tested route. However, using this approach, the Council would be at significant risk of not being able to complete the procurement exercise and other steps necessary in time for the preferred partner to be on site by November 2022. CBRE provided a timetable detailing this option and the earliest possible start on site date would be late February 2023. This would mean the BHLF grant would be at risk of being re-allocated to another scheme within Greater Manchester (GM).

3.1.3 A land sale to a preferred developer sits outside the PCR (2015). It would require due diligence to be undertaken by the Council on the suitability of the developer and appropriate contractual arrangements being put in place, including a buy back agreement, to ensure that the project is delivered in accordance with the BHLF grant requirements.

This approach has been undertaken by other Councils elsewhere within GM including Bury and is subject to a preferred developer engagement exercise in order to ensure:

- That the council is getting best value and a deliverable scheme that meeting BHLF grant delivery timescales (more detail on this is provided at Section 2.3).
- That an illustrative planning brief and concept plan are presented to the preferred developer, although they will need to develop their own plans for the site.

3.1.4 Independent Legal Advice has been obtained from Brabners LLP and concluded that with careful structuring, the transaction would not be considered a Public Works Contract and would therefore sit outside of the regulations. They also state that the key here is the Grant Agreement and Brabners strongly recommend that this is completed directly between Hive and GMCA and there is no obligation on Hive as part of the sale documentation. It must be noted in relation to the development brief referred to above that Brabners have advised that anything that can be seen to be taking measures to define the work or having a decisive influence (eg type of housing, density, finish standard) could constitute a works contract. As such, the Council can only provide an illustrative brief but state that Hive must produce its own design and plans for the development.

3.2 Development Proposal

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- 3.2.1 Hive Homes was formed in 2018 with the sole purpose of delivering much needed quality new Homes throughout Greater Manchester aimed at first time buyers, growing families and single home-owners alike.
- 3.2.2 Hive are owned and funded by some of the North West's most respected Social Housing Providers & Funders and the profit they make from building and selling new homes is returned to the Funders for them to use in creating and supporting even more Social Housing. The leading names who operate in Oldham behind the 'Profit for Purpose' Business are Great Places Housing Group, Onward Homes and the GMCA.
- 3.2.3 Hive's latest development proposal can be found at Appendix 1. They propose to deliver a total of 134 quality new homes. Ninety (90) will be open market sale and 44 will be a mix of Affordable Rent and Shared Ownership meaning that 33% of the development will be affordable – well above the minimum 10% required for Planning Purposes. The Registered Provider has not yet been confirmed but will be member of the GM Housing Providers Group meaning that they already own and manage housing in GM. All the properties will be houses with 52 x 2 bed and 82 x 3 bed.
- 3.2.4 All homes will be built in accordance with national space standards. The affordable homes will be constructed to a Carbon Neutral specification to SAP10 and the private element will be to Low Carbon Standard due to cost and the potential impact on sales.

The key elements of this Carbon Neutral specification are:-

- Super Insulated Timber Frame Inner Leaf with traditional Masonry Outer Leaf
- Super Insulated Roof Void
- Triple Glazing
- Space Heating provided by Air Source Heat Pump
- Photo Voltaic Roof Tiles with Inverter & Battery Storage
- Heat Recovery on Bath & Shower Wastes
- High Efficiency Extract System

The Low Carbon standard follows a similar Specification but, uses a traditional Masonry Inner Leaf in lieu of Timber Frame. Both tenures will be 100% Electric and the Scheme will be entirely 'Gas Free'.

- 3.2.5 An overage arrangement will be agreed with Hive whereby any excess sales revenue is shared with the Council and GMCA.

3.3 CBRE Best Value Assessment

- 3.3.1 The Council commissioned CBRE to conduct an independent third party assessment of the proposed commercial terms, disposal proposal and development output in the context of achieving the prescribed requirements of best value as out in Section 123 of the Local Government Act 1972.

- 3.3.2 The exercise was conducted by assessment of the following:

- Development Proposal
- Strategic fit
- Quality of design
- Overall development viability
 - Policy Context
 - Rational for disposal

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- Deal structure
 - Benefits to the Council
 - Value for Money and benefit to the Council
 - Risk Mitigation
 - Delivery
 - Affordability
 - Development
 - Completion

3.3.3 The following key findings from the CBRE Best Value Report are:

1. CBRE has reviewed Hive Homes' development appraisals for the three sites and have identified that the inputs Hive Homes have provided are reasonable and sound;
2. CBRE consider the deal as outlined in the Hive Homes submission will satisfy the Council's obligations to demonstrate best value, as Hive Homes are able to deliver a scheme on 3 brownfield housing sites which have stalled and remained undeveloped since the Housing Market Renewal Intervention in 2009-2013; and
3. CBRE considers that the Hive Homes development proposal for Derker offers considerable benefits to the Council which include:
 - The regeneration of and investment into one of the 10% most deprived neighbourhoods in the country;
 - The delivery of 44 carbon neutral affordable homes;
 - The delivery of 90 low carbon open market sale homes; and
 - The delivery of 134 homes to contribute to policy targets for the Borough.

4. Options/Alternatives

Option 1 - Procure a delivery partner through a compliant procurement process

By using this option, the Council would not be able to complete the process in time to draw down the BHLF Grant which would greatly affect the overall viability of the proposed development and the quality of the homes being built. This option, with the luxury of a longer time period, would however allow for the Council to enter into a Works Contract and therefore have more control over the type of homes being built.

Option 2 - Market the site on the open market for disposal

The site could also be marketed for sale on the open market. This option would give the Council no certainty around the type of homes built (other than via the Planning Process) or on when the homes would be built. It is likely that the development would be only Policy Compliant in terms of affordable homes (i.e. 10%) and only be built to Building Regulations standards. The homes would not be low or zero carbon. Whilst it is possible this option would generate a capital receipt, none of the council's or GMCA's wider strategic objectives would be met. The terms and objectives around the BHL Grant, including timescales and 'Build Back Better' Agenda would also be seriously jeopardised, therefore under this option the grant would likely be lost

Option 3 - Direct disposal to Hive Homes

This option would enable a high-quality scheme to be built in accordance with the Council's aspirations for Derker and also enable Hive to access the allocated BHLF Grant. A buy-back agreement will be in place if the scheme is not built out in time or if Hive fail to meet any of the other requirements of the BHLF Grant Agreement.

5 Preferred Option

5.1 Option 3 is the preferred option.

6 Consultation

6.1 The Portfolio-holder for Housing has been consulted and is supportive.

7 Financial Implications

7.1 Contained within the Part B Closed Report.

(James Postle)

8 Legal Services Comments

8.1 Contained within the Part B Closed Report

(Rebecca Boyle, Group Solicitor, Corporate Team and Rebecca Butterworth, Solicitor, Corporate Team)

9. Co-operative Agenda

9.1 The funding will enable a mix of new homes to be built on long term vacant sites. The scheme will include a mix of affordable housing which will be let to those on housing need on the Housing Register.

(Ben Hill – People and Place)

10 Human Resources Comments

10.1 Not applicable

11 Risk Assessments

11.1 Contained within the Part B Closed Report

12 IT Implications

12.1 Not applicable

13 Property Implications

13.1 Property comments are as described in this report.

Ben Hill, People and Place

14 Procurement Implications

14.1 Contained within the Part B Closed Report

(Emma Tweedie – Commercial Procurement Unit)

15 **Environmental and Health & Safety Implications**

15.1 Not applicable

16 **Equality, community cohesion and crime implications**

16.1 Not applicable

17 **Implications for Children and Young People**

17.1 None

18 **Equality Impact Assessment Completed?**

18.1 No

19 **Key Decision**

19.1 Yes

20 **Key Decision Reference**

20.1 HSG-03-22

21 **Background Papers**

21.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

Contact the report author Ben Hill for background papers.

22 **Appendices**

22.1 Proposed Scheme Plans