

**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL
RECORD OF EXECUTIVE / CHIEF OFFICER DECISION**

This form should be used to record key and other decisions made by individual Portfolio Holders and key decisions made by Chief Officers. The contact officer will ensure that the signed and completed form is given to Democratic Services as soon as reasonably practicable after the decision has been taken.

Unless permission has been obtained from the Chairman of Council and the Chairman of the Scrutiny and Overview Committee that this decision be treated as a matter of urgency under Rule 12.19 of the Scrutiny and Overview Committee Procedure Rules, this decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless called in under Rule 7 of the Budget and Policy Framework Procedure Rules or Rule 12 of the Scrutiny and Overview Committee Procedure Rules.

Portfolio	Lead Cabinet member for Housing
Subject Matter	Purchase of 12 affordable shared ownership homes at Grace Crescent, Hardwick
Ward(s) Affected	Hardwick
Date Taken	Monday, 3 December 2018
Contact Officer	Gill Anderton, Head of Housing (New Build) (gill.anderton@scamb.gov.uk)
Date Published	Monday, 3 December 2018
Call-In Expiry	Monday, 10 December 2018
Key Decision?	Yes
In Forward Plan?	Yes
Urgent?	No

Purpose / Background
<p>The purpose of this Decision Notice is to give approval for South Cambridgeshire District Council (SCDC) to enter into Heads of Terms followed thereafter into a JCT Design & Build Contract (JCT 16 – industry standard) to purchase 12no affordable homes representing the 30% intermediate element of the S106 40% affordable housing contribution on a site at Grace Crescent Hardwick. The tenure of the 12 new homes will be shared ownership.</p> <p>The site has been brought forward by Hill who is an award winning house builder and developer in partnership with whom we have built out a number of high quality affordable homes in our district.</p> <p>It its entirety the site totals 98 new homes - with the policy compliant 40% affordable housing of 39 new homes comprising 27 rented homes and 12 shared ownership homes.</p> <p>Previously SCDC had negotiated a deal for all 39 homes, but this could not go forward in the timescales Hill required for their commercial operation.</p> <p>SCDC then reverted to a previous negotiation for 27 rented homes and a Decision Notice dated 6th July 2018 approved this. We are poised to sign the JCT Contract in respect of these 27 rented homes in the next 7-10 days. The contractor has commenced on site.</p> <p>Hill had a separate deal to enter into contract with another RP on the 12 shared ownership homes. Unfortunately this arrangement has now fallen through and Hill has been to the market for further offers from Registered Providers including ourselves on the 12 x shared ownership homes. The council has re offered in respect of the 12 new homes, and this offer from the council has been accepted by Hill.</p> <p>All reserved matters have been resolved and Hill have now started on site with site clearance, set</p>

up and infrastructure works.

Enabling/Strategic support

Strategic Housing fully support this mix, as it will provide much needed homes in Hardwick where SCDC has existing stock , but has not added to it for many years.

The overall affordable housing mix has previously been agreed by Housing Strategy as meeting the housing needs in Hardwick and its environs.

Scheme details

Planning Reference number :

The site has planning (ref: S/1694/16/OL) with all conditions now discharged.

The S106 is signed and completed.

Mix:

Description of	No of	Type of	Stock	No of
Units to be delivered:	Units:	Tenure:	Category:	Beds:
2 bed flat	3	Shared Own	Flat	2
2 bed flat	2	Shared Own	Flat	2
2 bed flat	1	Shared Own	Flat	2
2 bed houses	4	Shared Own	House	2
3 bed houses	2	Shared Own	House	3

Shared Ownership units will be sold as part of this scheme and their ongoing sale forms part of this decision
Average equity buy-in will be 40%

Contract type:

The contract will be a JCT 16 contract. (Joint Contracts Tribunal) Design & Build Contract

Procurement Officer advice:

This contract value at £2.9m is under the OJEU threshold. The council is able to enter into a JCT Design & Build fixed price works contract to facilitate the building of the 12 affordable homes under the council's exemption process.

Nonetheless the total cost of all 39 new affordable homes exceeds the OJEU threshold.

Procurement Officer advises: *"The total contract value needs to be considered in the context of the total development. This means that it would be a above threshold contract, however the developer has exclusive rights and so Section 32 (b) iii of the regulations would apply. This means that you are able to enter to into a contract with the party that has exclusive rights."*

Public Contracts Regulations 2015.

"Where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:

- (i) the aim of the procurement is the creation of acquisition of a unique work of art or artistic performance;
- (ii) competition is absent for technical reasons;
- (iii) the protection of exclusive rights, including intellectual property rights"

Legal Advice : Freeths :

"We believe that either ownership or an option constitute such "exclusive rights". It needs to be said, however, that cases do turn on their facts. We would also have to state that the Council should be able to demonstrate that in the case where it was letting a contract including development, that there is no reasonable alternative or substitute – ie there are not other similar convenient sites which could reasonably be regarded as being available for development, eg in terms of being for sale, zoning, access to services etc.

Hardwick is a small village and 2 sites have arisen over recent years. One is being built out by Clarion Housing and is near to completion. The other permissioned site is this one. There are no other suitably sized permissioned sites in Hardwick that are available for consideration at this time.

Financial

Use of Right to Buy Receipt:

This scheme is 12 shared ownership homes and as such does not allow the use of Right to Buy. Right to buy receipt has been allocated the the 27 rented homes on this site.

Use of Commuted Sum:

We are using £600k of commuted sum monies to assist in bringing these 12 x shared ownership homes forward as council new build. This aligns with our standard £50k per unit commuted sum spend profile on new build schemes

The scheme is considered to be value for money for the council. The offer and price per sq. m is commensurate with sums paid for recent council new build development schemes. In addition a robust financial appraisal has been carried out and a commercially sensitive financial appendix is attached. The scheme has a Payback year within the business plan parameters.

Declaration(s) of Interest

Record below any relevant interest declared by any executive Member consulted or by an officer present in relation to the decision.

None

Dispensation(s)

In respect of any conflict(s) of interest declared above, record below any dispensation(s) granted by the Council's Standards Committee.

None

Consultation

Record below all parties consulted in relation to the decision.

Hill has consulted widely and for over 18 months with the Parish Council , Member(s) and local residents on the new build scheme proposals.

Note: The Council has not been involved in this scheme until post Planning.

Other Options Considered and Reasons for Rejection

Option 1: Option 1: The Council decides not to enter into contract with Hill for the purchase of the 12 x shared ownership affordable homes on this site.

Reason for Rejection:

- To reject the scheme would require a substitute scheme of similar size and cost to be found in the district to provide new affordable homes. This would be by no means certain and is unlikely to be achieved in the timescales. It would be resource intensive and is unlikely to be possible, with the return of unspent right to buy receipt back to the Treasury with interest if no suitable scheme could be sourced.
- There are no other suitably sized permissioned sites in Hardwick that are available for

consideration at this time.

- In addition the HRA Business Plan has a delivery plan target of unallocated spend of £9.97m against which this £2.9m spend will be set. To not proceed would leave a significant under delivery against the overall business plan targets.

Final decision	Reason(s)
<p>To approve South Cambridgeshire District Council entering into Heads of Terms followed thereafter by a contract to purchase 12 no affordable homes on a site at Grace Crescent Hardwick.</p>	<ul style="list-style-type: none"> • This scheme will provide 12 affordable homes shared ownership tenure - and affordability is a huge issue for the District in terms of housing. • The scheme is a substitute for schemes that have failed to gain planning (Thriplow) that appear of the current MTFS approved development pipeline. • These homes will also add additional affordable homes to the Councils housing stock and will be managed by the in house SCDC Leasehold team. • The provision of affordable homes is likely to reduce significantly due to recent policy changes for housing providers and the lack of HCA funding available. • Changes to housing benefit and welfare reform will also mean that the demand for affordable homes will only increase in this area.

Signed	Name (CAPITALS)	Signature	Date
Portfolio Holder Chief Officer	Signed copy available upon request from Democratic Services (democratic.services@scambs.gov.uk)		

Further Information