

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	Executive Committee
Date:	18 December 2017
Subject:	Development of New Council Houses through a Design and Build Package by Developers who are Landowners
Portfolio Holder(s):	Councillor Alun Mummery
Head of Service:	Shan Lloyd Williams
Report Author: Tel: E-mail:	Ned Michael, Housing Business Manager
Local Members:	Relevant to all Elected Members

A –Recommendation/s and reason/s

It is recommended that the Executive Committee on 18th December approves: -

The purchase of new houses built by private developers through design and build packages on lands that are owned by the private developers.

The Executive to recommend to the full Council that the Scheme of Delegation to the Head of Service (Housing) be amended to reflect the additional powers required to realise the transactions required by this scheme.

Background

Purchasing new houses built by private developers through design and build packages on land owned by private developers is recognised by the Welsh Government as an acceptable method of developing new social housing and is used regularly by Housing Associations.

This approach is seen as a way of supplying new housing comparatively quickly, where the risks associated with developing new houses remain with the developer.

In terms of securing value for money, the Welsh Government has prescribed an acceptable cost guidance, based on competitive tender prices that have been received for building social housing, for the various types of units such as flats, bungalows and houses of differing sizes and different number of bedrooms across all parts of Wales.

We do not currently take advantage of this method of developing new Council houses, but if we are serious about increasing our rented housing stock and want to be seen as contributing towards the target of 20,000 additional affordable housing units during this Government's term, this method would be a highly effective way of achieving this.

Procurement Rules

The proposal to purchase land with planning permission from owner / developers, and to enter into a development agreement with the same owner / developer will not be subject to the full public procurement regime requiring an OJEU Notice provided that the value of the scheme does not exceed the current threshold of £4,104,394. Where the value is below the current threshold any agreement reached with a developer/ owner must still be conducted in line with procurement best practice and also in line with the principles of the EC Treaty to afford fairness, competition, transparency, as well as in accordance with the Councils own Contract Procedure Rules.

Site Selection

The first step we will take as a Housing Service is to check the need for rented housing across the Island, and more specifically the need for the specific types of units.

We would select sites in consultation with the Land and Assets Group as a key part of achievement of our Place Shaping Strategy.

Having identified the need for new housing, we could prepare an advert and arrange to launch our new council housing development programme over the next 4 years and invite companies/developers who already own sites with planning permission to contact the service in order to discuss the opportunities.

The advert would note the number of new Council houses we intend to buy through this method over the 4 year period.

By following the above route, we would be seen to be transparent regarding the developers we choose to work with.

Priority would be given to developers who have schemes which are 'ready to go' but obviously, in announcing a 4 year scheme, companies/developers would know that we were looking for schemes and this would give them time to look for suitable opportunities.

Over the next 4 years, we anticipate that 400 additional units of social housing will be developed on the island, 195 by the Housing Service and 205 by the Housing Associations active on the Island.

Negotiating Terms

We will agree the requirements with regard to the design and specification of any housing development and any new Council houses purchased from developers would need to comply with the Welsh Government's Development Quality Requirements for social housing.

The Welsh Government's acceptable cost guidance has been designed to reflect land and house prices throughout Wales and is accepted as providing value for money for the specifications laid out within the development quality requirements.

In accordance with the Welsh Government's guidance for package schemes with private developers, we would expect the final cost of the completed development to be within the acceptable cost guidance.

We would appoint Quantity Surveyors as professional experts on construction costs, to advise us on the building costs and to verify that the sum we would be paying the developers reflects the market price and provides value for money.

We would agree a price with the developer for the finished development but would pay by instalments as the development proceeds in accordance with the JCT's standard Design and Build Contract 2016.

The work specification, the final price and the development timescale will be agreed and included as part of the building contract. This would make the developer liable for all risks associated with the cost and the timescale of the development.

The first payment to the developer would be based on the open market value of the land, as evidenced by a report from a professional valuer, and upon receipt of this payment the ownership of the land would be transferred to the Council. We would use the valuation provided by the Property Department as an external valuation would not be required. If we were to receive any capital grants from Welsh Government towards the development, then we would use an external valuer.

As the development proceeds, Quantity Surveyors appointed by the Council will evidence, on a monthly basis, the value of the construction work carried out during the month in order to release the payment to the developer.

Prior to agreeing formally with any developer to move ahead with a development, we will conduct a financial viability assessment for the development in accordance with the process that has already been submitted to the SLT and HSB and approved by the Section 151 Officer.

Prior to agreeing formally with any developer to move ahead with a development, we will also conduct a due diligence assessment of the developer, to ascertain whether the developer has the financial capability and resources to undertake a development of this scale at this time. The Finance Team would conduct this assessment.

The Value of the Asset compared with the Cost

Very often when developing social housing, the cost of providing them to the expected specification and quality is higher than the open market value of the houses.

This should not be regarded as an obstacle to proceeding to secure the development as the asset will never be sold on the open market. The asset is for social use and it will pay for itself through the rental income received by the Council over a long-term period of approximately 45 years.

This principle is accepted and recognised as a valid method of developing affordable housing by the RICS (Royal Institution of Chartered Surveyors) in their guidance note 'Valuation of Land for Affordable Housing', April 2016.

What is essential is that we're able to prove that we get value for the public money being paid for the asset.

We can do this through the Acceptable Cost Guidance procedure established by the Welsh Government for the development of social housing, and the value for money certification we will receive from Quantity Surveyors who will be acting on our behalf in any new development.

The Council's Land and Assets Policy

The Isle of Anglesey County Council's Constitution (September 2016) permits the delegation of responsibilities to Council Officers and defines the responsibilities which are delegated to Chief Officers.

It is noted within the Council's Constitution that the Head of Housing Services is responsible for leading the County Council's Housing Strategy and the Housing Revenue Account.

The Council's Asset Management Policy and Procedures (May 2016) also notes procedures with regard to the addition to, and disposal of, Council assets which specifically excludes Social Housing and the Housing Revenue Account. This Policy sits under the Head of Highways, Waste and Property

When the Council's Asset Management Policy and Procedures was formulated, the Housing Service had not started developing new Council housing and there is certainly no provision for this type of land and assets procurement included within the policy or within corporate procurement policies and guidelines.

If we were to adopt this method of developing new Council housing, the Council's Constitution would need to be revised so that our Legal Services can be satisfied that we are complying with our relevant policies and procedures.

Any new Council housing and social housing development would sit within the Housing Revenue Account, therefore it should be stated within the Constitution that the responsibility for any addition to, or disposal of such assets would rest with the Head of Housing Services.

Proposed amendments to the Council Constitution would be to add the following points to the Delegated Authority of the Head of Housing Services:-

1. To exercise the Council's Powers and duties to acquire plots of land for the purpose of new Council housing and social housing developments in consultation with the Local Members, the Housing Portfolio Holder and in accordance with the Councils' Housing Strategy and Plans.
2. To approve and deliver new Council housing and social housing development schemes.

The HSB has already agreed that any new Council housing development scheme comprising more than 10 units should be presented to the Executive Committee for its approval.

The Head of Housing Services, in consultation with the Section 151 Officer would be eligible to approve developments of less than 10 units provided funding was available in the HRA's Business Plan and annual budget.

Conclusions

We will require further legal advice when we have agreed the number of units and areas we will be looking to develop through this method to ensure that we do not leave the Council open to legal challenge with regards to the selection of companies/developers.

We will prepare an advert noting the number of new Council houses we wish to build every year using this method in order to be completely transparent when selecting companies/developers.

We will consult appropriately with other Services and report regularly to the Housing Services Board and the Land and Assets Group regarding any opportunities which have been presented by companies/developers.

Before making a formal agreement with any developer to proceed with a development, we will undertake a financial viability assessment on the development in accordance with the process which has already been presented to the SLT and the HSB and approved by the Section 151 Officer.

Before making a formal agreement with any developer to proceed with a development, we will undertake an assessment of due diligence on the developer, i.e. does the developer have the financial capability and the resources to undertake a development on this scale at this time.

When using this method to develop Council houses, the developer is liable for the risks associated with the development and it is considered to be a secure method of developing a high number of new houses of the required standard fairly quickly.

Unless we use our borrowing cap – approximately £13m there is a risk that Welsh Government will transfer this to another Local Authority in Wales.

B – What other options did you consider and why did you reject them and/or opt for this option?

Other methods of developing new Council housing have already been approved, these include buying back former Council houses, building new Council housing on HRA land and building new Council housing on land already owned by the Council.

This latest method supplements these methods.

C – Why is this a decision for the Executive?

C1. This is a decision for the Executive as it is a new method of purchasing/developing new Council housing.

D – Is this decision consistent with policy approved by the full Council?

The full Council have approved the Housing Revenue Account Business Plan which includes a programme for developing new Council housing.

DD – Is this decision within the budget approved by the Council?

D1. Yes – it is within the approved Business Plan of the Housing Revenue Account 2017-47.

E – Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	The report was submitted to the SLT on 20 February. The SLT supports the recommendation.
2	Finance / Section 151 (mandatory)	The Section 151 Officer is satisfied with the financial assumptions that have been used for assessing the financial viability of new developments.
3	Legal / Monitoring Officer (mandatory)	Supportive to the recommendation. Have suggested amendments to the Council Constitution as noted within the report.
5	Human Resources (HR)	Not consulted.
6	Property	
7	Information Communication Technology (ICT)	Not consulted.
8	Scrutiny	
9	Local Members	
10	Any external bodies / other/s	

F – Risks and any mitigation (if relevant)		
1	Economic	The Council's Capital Plans are subject to the Council's procurement arrangements and use Value Wales to measure Community Benefits and are therefore supported by the Economic and Community Regeneration Service.
2	Anti-poverty	A provision of new houses will offer comfortable homes for people most in need in our communities.
3	Crime and Disorder	
4	Environmental	
5	Equalities	
6	Outcome Agreements	
7	Other	

FF - Appendices:

None

G - Background papers (please contact the author of the Report for any further information):
