

Name of meeting: CABINET

Date: 14 March 2023

Title of report: PROPOSED ACQUISITION OF AFFORDABLE HOMES THROUGH THE S106 PLANNING PROCESS, SITE OFF OWL LANE AND CHIDSWELL LANE, DEWSBURY, DEVELOPED BY BARRATT HOMES

Purpose of report: The report seeks Cabinet authority to proceed to acquire new build homes from a development site at Shaw Cross, Dewsbury, to provide additional affordable homes, which shall be owned by the council and managed by the Homes and Neighbourhoods Service. Cabinet is asked to delegate authority to the Strategic Director for Growth and Regeneration and the Service Director for Legal, Governance and Commissioning to enter into negotiations, exchange contract and complete the purchase of the homes.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards? Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.	Yes. The proposals will result in expenditure greater than £250,000.
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	Key Decision – Yes. Public Report with a Private Appendix
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by Strategic Director & name	David Shepherd , Strategic Director for Growth and Regeneration. 28/02/2023
Is it also signed off by the Service Director for Finance?	Eamonn Croston , Service Director for Finance and Accountancy. 28/02/2023
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft , Service Director for Legal, Governance & Commissioning 02/02/2023
Cabinet member for Housing and Democracy Portfolio:	Cllr Cathy Scott

Electoral wards affected: Dewsbury East

Ward councillors consulted: Cllr Cathy Scott, Cllr Eric Firth, Cllr Aleks Lukic

Public or private: Public, with a Private appendix

Has GDPR been considered? Yes. The report does not share personal data.

1 Summary

1.1 The report outlines the business case for the proposed acquisition of 14 one-bedroom new build flats from Barratt Homes on its site off Owl Lane, Shaw Cross, Dewsbury. The homes

would be acquired using funds from the HRA Capital Plan Council Housebuilding Budget within the ‘strategic priorities’ section of the capital plan, and managed as part of the Housing Revenue Account. The site and property details are shown in **Appendix 1**.

- 1.2 The Section 106 planning obligation relating to this site requires the developer to provide affordable housing. 38 discounted market sale homes will be made available for sale to qualifying first time buyers directly from the developer, and 14 flats are to be provided for letting at Affordable Rent. These are available for sale to Registered Providers, which includes the Council.
- 1.3 The S106 planning process enables Registered Providers to acquire new affordable housing stock at significant discount from the open market value and build costs. This route allows the council to respond to housing need and improve its housing stock. It provides new affordable homes without the lead-in design, commissioning, and contracting costs.
- 1.4 External advice commissioned by the Council has assessed the proposed acquisitions over a 30-year financial appraisal. This covers acquisition, letting, management, maintenance and repair costs against indexed cost assumptions, and rental income.
- 1.5 Analysis indicates that the discounted acquisition of the flats is sustainable and that it generates a positive Net Present Value.
- 1.6 The report is supported by a private appendix which sets out the financial and negotiation position which will support Cabinet in its decision making. This information, if published, would reveal the private business interests of another party and it would hinder the ability of the council to negotiate and proceed with arrangements in a commercial environment.
- 1.7 The report seeks Cabinet approval to proceed with negotiations, and to ask Cabinet to delegate authority to the Strategic Director for Growth and Regeneration, and the Service Director for Governance and Commissioning to negotiate, enter into contract and complete the acquisition of the 14 flats outlined in this report.

2 Information required to take a decision

Background: Acquisition through the S106 planning process

- 2.1 The S106 planning process secures developer subsidy of the cost of providing affordable housing. This enables Registered Providers to acquire new housing stock from developers at significant discounts from the open market value and build costs. Development risk also lies with the external developer, and the buyer will save design, procurement and contracting costs and time in acquiring the stock. The S106 planning route is used by external Registered Providers to grow their portfolio.
- 2.2 On 10 November 2022, the Homes and Neighbourhoods Council Housing Supply Board endorsed engagement with private sector developers to acquire housing stock through the Section 106 Planning process and supported the negotiation with Barratt Homes to acquire new build affordable housing stock at their Owl Lane site. This was subject to further business case evaluation and future Cabinet authority.
- 2.3 Following negotiations, an initial offer from the Council to acquire 14 flats (subject to senior management approval, Cabinet approval and Contract) was accepted by the developer on 23 January 2023.
- 2.4 The flats are to be rented at LHA rates within the defined Affordable Rent parameters, as required by the S106 Agreement, and will be sold to the Council on a Freehold basis. They

are configured in two blocks, one of 6 and one of 8 flats. The buildings will be two storeys high, and of timber construction with external brickwork facing. With construction already starting on site, these units are expected to be ready for handover before the end of June 2023.

Financial Considerations

14 one bed flats to be acquired at discount through the planning process

- 2.5 The flats are just within, or marginally under Nationally Described Space Standards. The flat sizes range through 40, 44, 48 and 49 sqm, and are being constructed under the pre-June 2022 Part L Building Regulations. Two flats will have private entries; the remainder of the flats will share lobbies; each serving 2 flats.
- 2.6 Heating and hot water will be supplied by gas boilers. Gas supply to the cooker point is under discussion to change to an electrical connection, reducing the use of fossil fuels. In the longer term, the council will be able to decide on the introduction of cleaner heating technology.
- 2.7 The S106 Agreement governs the management and maintenance of external open space. Grounds management company, Trinity Estates, will manage the open space beyond the immediate area to be held with the flats. A management fee will be charged (currently £130 per property per year which would be passed on the tenants), and the council can participate in an AGM governing the management of open space.
- 2.8 The S106 Agreement specifies that the flats will be let at Affordable Rent (up to 80% of the market rent, including service charges). The Agreement also governs the transaction price, to be no less than as prescribed in the council's affordable housing policies or as updated.
- 2.9 The cost of acquiring the stock and making it available to rent , inclusive of professional fees, and Stamp Duty Land Tax ('SDLT') is £663,465 (£47,400 per flat) which is estimated to be over 40% less than market value, representing a robust value for money position for the council. Legal Services have advised on the SDLT payable, and officers will assess how tax relief may be obtained to further reduce this burden.
- 2.10 The scheme has been appraised on a 30-year basis, which results in a positive Net Present Value. The purchase of the flats would be funded from the HRA Capital Plan within the Council Housebuilding budget, identified within the Capital Plan strategic priorities.

Housing need

- 2.11 Bidding activity from the council's choice based letting system Choose-n-Move for the last 2 years in the housing management area indicates a strong demand for 1, 2 and 3 bed homes, and from a housing management perspective, early discussions with housing management indicates that the properties will be easily let. However, work will need to be undertaken in advance to consider letting criteria.
- 2.12 In terms of rent and affordability to the end user and tenant, the S106 Agreement relating to the flats states that the Affordable Rent units shall be "subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges where applicable)." This gives some flexibility as to the rent levels charged, and it provides the council with flexibility to respond to the cost-of-living crisis and provide warm affordable housing to Kirklees residents. It is proposed that these homes will be let at LHA rates plus modest service charges which would cover lobby/stairwell cleaning and open space costs

3 Implications for the Council

- **Working with People**

- 3.1 In acquiring these properties, the Council can provide these homes as part of its wider offer and seek to obtain feedback from new tenants to ensure that this learning can feed into future improvements and specification requirements when working with the development sector in the future.
- 3.2 At its core, the proposal is to acquire and make available more affordable housing as part of the Homes and Neighbourhoods housing development programme. This is about tackling inequality, affordability, fuel poverty, and the cost-of-living crisis by providing new quality, safe, warm affordable homes for current and new housing tenants whose needs cannot be met on the open market. A varied tenure offer as part of a mixed income and mixed community scheme is a positive place shaping outcome to support our residents.

- **Working with Partners**

- 3.3 Continuing to work with new and existing partners across the public and private sector can help the council to deliver its objectives and this pilot approach to acquire new stock directly from the developer is an important new strand in finding ways to reduce costs to the council, lead in times and procurement stages. If approved, this would be the first such arrangement for the Council to buy stock from a developer, and it is important to recognise that investing in this site is also a commitment from the Council to directly invest in the North Kirklees Growth Zone.
- 3.4 Continuing to forge relationships with the development sector is an important step to demonstrating the Council's commitment to delivery and its appetite to work in a commercial environment to maximise outcomes for the district and its residents.

- **Place Based Working**

- 3.5 This proposed purchase of new homes is a targeted, evidence-led response to meet housing need, which is evidenced by the Strategic Housing Market Assessment and corroborated by bidding data from the Council's choice based letting system, which captures data from bids to the council, and partners' stock. This evidence is based on the letting areas in this locality.
- 3.6 Providing affordable homes in this location will provide residents with an opportunity to live and work locally, and travel across the region and beyond, given the close access to Leeds, Wakefield and the motorway network nearby.

- **Climate Change and Air Quality**

- 3.7 This acquisition opportunity will acquire stock which has already been through the design process, and which is now under construction. The council has very limited opportunity to improve environmental performance in the short term although as the prospective purchaser of the freehold interests, the council will have the ability to investigate and later introduce new heating technology.
- 3.8 The developer is implementing a planning permission which has been considered against Local Plan policies introduced from 2019. The new homes will introduce newer stock to the council's portfolio which will be built to perform to higher Building Regulation, planning and environmental standards than the council's wider portfolio. Officers are already in dialogue on how gas supply to the cooker point can be changed to electricity, to reduce the reliance on fossil fuels at the point of use.

- **Improving outcomes for children**

3.9 This housing intervention will have cross cutting benefits in providing an opportunity for safe, warm and affordable housing and it will help to provide accommodation which could help to reduce fuel poverty, address the cost-of-living crisis by the provision of affordable housing. The flats will provide an opportunity for couples or single residents and this can factor into releasing other stock which is more suited to families with children.

- **Financial Implications for the people living or working in Kirklees**

3.10 This proposed purchase will help to provide new affordable housing stock in Shaw Cross, which falls within the worst 10-20% of indices of multiple deprivation. The provision of affordable homes is underpinned by the evidence base for their need, and this intervention will help to address the cost-of-living crisis. It is also important to note that the location of the scheme is immediately adjacent to the 58-hectare Chidswell mixed use employment and residential development site allocated in the Local Plan, which will see very significant direct and indirect job opportunities, and infrastructure investment in this locality. The location of the site is also conveniently located to access the motorway network and job opportunities in Kirklees, the city region and beyond.

- **Other (e.g. Integrated Impact Assessment (IIA)/Legal/Financial or Human Resources) Consultees and their opinions**

3.11 As this project will impact across multiple themes, the IIA screening tool has been used to support the assessment of the scheme in accordance with section 149 of the Equalities Act 2010.

The Equality Act 2010 (Section 149) requires the Council to have due regard to the need to:

a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act

b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

This has assessed the positive benefits and contributions across policy themes and outcomes in relation to the provision of a new, or enhanced service, and the impact on people and protected characteristics, and the environment. The screening tool suggests that a Stage 2 Integrated Impact Assessment is not required for this specific proposal.

3.12 The Section 106 Agreement relating to this development is the legal document which has been agreed between the site owner and the council, and it governs the provision of affordable housing and the management of open space on site.

3.13 The Agreement defines Affordable Rent as:

“.....an affordable rent where the following conditions are met (i) that is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable),(ii) the Landlord is a Registered Provider,(iii) includes provisions to remain an affordable price for future eligible households as defined in Annex 2 of the National Planning Policy Framework (or any future guidance or initiative that replaces or supplements it)”

As the council proposes to rent the properties at LHA rates and service charges, these will be values greater than social/target rent, and below 80% of the market rent. It is considered that this arrangement will comply with this clause.

- 3.14 The Council is a Registered Provider and Legal advice is that the Council has the authority to exercise its powers of purchase, and provision of housing accommodation under section 17 and section 9 of the Housing Act 1985. The flats will vest in the HRA by virtue of section 74(1)(a) of the Local Government and Housing Act 1989.
- 3.15 Legal advice is that rents may be charged by the Council which are above target (social) rent, and include Affordable Rent levels. However, under the DLUHC Policy Statement on Rents for Social Housing (as updated on 14 December 2022), this would need to be in accordance with an agreement from the Secretary of State or Homes England that it is appropriate for the accommodation to be let at an affordable rent.

4 Consultation

- 4.1 The proposals have been shared with Dewsbury East Ward members and comments received are set out in this section.

Cllr Cathy Scott: Fully supports the proposals as Portfolio Holder (and as Ward Member).

Cllr Eric Firth has expressed reservations about the provision of one bed flats in relation to the practicalities of accommodating visiting children of single parents.

Cllr Aleks Lukic has confirmed that he fully supports the proposals.

5 Engagement

- 5.1 As part of the tenant engagement charter, the proposals will be discussed with the Housing Advisory Board.

6 Next steps and timelines

- 6.1 If Cabinet authority and delegated authority is granted, it is proposed to continue to work with Legal Services and progress with negotiations, and to enter into contract and provide a deposit, and complete the purchase of the 14 flats before the end of June 2023. Close liaison with development and housing management staff will help to prepare for the stock being handed over and made available for rent.
- 6.2 To support the progression of the build, and to ensure that the Council's specifications and interests as purchaser are protected, the council will allocate or procure a Clerk of Works to work with the developer. This is accounted for in the overall costs of the project.

7 Officer Recommendations and Reasons

- 7.1 It is recommended that Cabinet:

- 7.1.1 **Agree to the acquisition of the 14 flats as outlined in this report (or similar types as may be substituted) and to delegate authority to the Strategic Director for Growth and Regeneration, in consultation with the Service Director for Legal, Monitoring and Commissioning, to negotiate, to draft and enter into contract with the vendor, and complete their purchase.**

- 7.1.2 **Agree to delegate authority to the Strategic Director for Growth and Regeneration, in consultation with the Service Director for Legal, Monitoring and Commissioning to seek agreement from the Secretary of State or Homes England (as appropriate) to enable the Council to charge LHA rates in these properties, within the scope of the definition of Affordable Rent**
- 7.1.3 **Agree that where agreement from the Secretary of State or Homes England is not granted, the Council shall charge target (social) rent for the dwellings.**
- 7.1.4 **Agree to the new dwellings vesting within the Housing Revenue Account and for the properties to be let at target rents or LHA rates within the scope of Affordable Rent.**
- 7.2 The reason for these recommendations is to ensure that consent, agreement and authority is in place to enable the proposed acquisition to proceed, and to provide a clear and transparent framework to enable future acquisitions to take place in a competitive market environment.

8 Cabinet Portfolio Holder's recommendations

- 8.1 Cllr Scott as Portfolio Holder fully supports the proposals as outlined in this report.

9 Contact officer

James Hinchliffe, General Manager, Development

Tel **01484 221000** james.hinchliffe@kirklees.gov.uk

10 Service Director responsible

Naz Parkar, Service Director for Homes and Neighbourhoods

Tel: 01484 221000 naz.parkar@kirklees.gov.uk

- This report should be read in conjunction with **Appendix 1** (Site and Property information below) and the **PRIVATE APPENDIX**, provided as a separate document.

The private appendix sets out the current negotiated position and contains sensitive commercial information which if published could compromise the council's negotiation position.

APPENDIX 1 : Cabinet 14 March 2023

Proposed housing acquisition, site off Owl Lane, Shaw Cross, Dewsbury

Details of the site and the 14 flats proposed to be acquired



Above: Site plan. Owl Lane runs to the west . To the east is Chidswell Lane. To the north is Windsor Road.

Right: Site plan

The 14 affordable flats under negotiation are circled.

Block 1: 8 flats [Northernmost block]

Types 60 and 61 (44/49 sqm)

Block 2: [Southernmost block]

Types 58/59, 60 and 61 (48/40, and 44/49 sqm)

Chidswell Lane is to the east of the site, and provides the vehicular and pedestrian access



BELOW: TYPICAL DETAILS OF FLATS PROPOSED FOR ACQUISITION

TYPE 58 / 59 - CHIDSWELL, DEWSBURY

FRONT ELEVATION
TYPE 59

FRONT ELEVATION
TYPE 58

REAR ELEVATION

GROUND FLOOR PLAN

FIRST FLOOR PLAN

SECTION / SIDE ELEVATION

TYPE 58/59 - 1820-HT-58-01
CHIDSWELL, DEWSBURY
BARRATT HOMES
SCALE:1:100@A3 - OCTOBER 2020

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TYPE 60 - CHIDSWELL, DEWSBURY

FRONT ELEVATION

SIDE ELEVATION

GROUND FLOOR PLAN

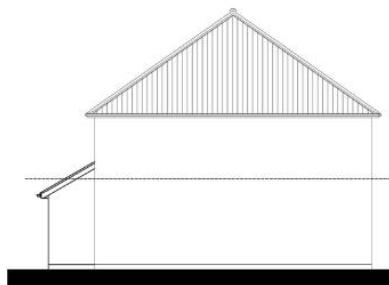
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CHIDSWELL, DEWSBURY
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SCALE:1:100@A3 - OCTOBER 2020

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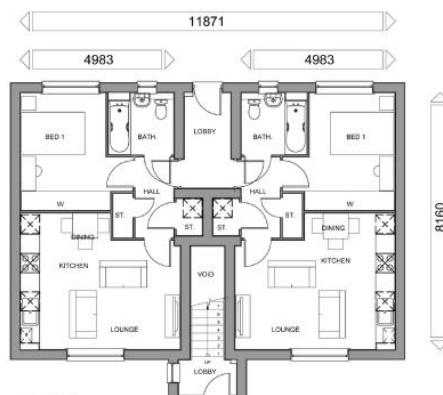
TYPE 60 - CHIDSWELL, DEWSBURY



FRONT ELEVATION



SIDE ELEVATION



TYPE 60
GROUND FLOOR PLAN

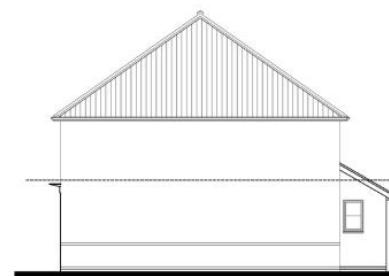
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BARRATT HOMES
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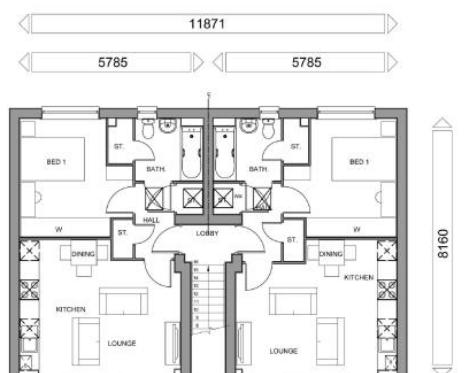
TYPE 61 - CHIDSWELL, DEWSBURY



FRONT ELEVATION



SIDE ELEVATION



TYPE 61
FIRST FLOOR PLAN

TYPE 61 - 1820-HT-61-01
CHIDSWELL, DEWSBURY
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SCALE:1:100@A3 - OCTOBER 2020

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