

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CABINET**

DATE: **TUESDAY, 16 SEPTEMBER 2014**

REPORT BY: **CHIEF OFFICER, COMMUNITY AND ENTERPRISE**

SUBJECT: **STRATEGIC HOUSING AND REGENERATION
PROGRAMME**

1.00 PURPOSE OF REPORT

- 1.01 This report provides an update on the Strategic Housing and Regeneration Programme ('SHARP'/the Programme'), and seeks approval to progress the next key stages of the Programme.

2.00 BACKGROUND

- 2.01 The background to the Programme is that the County Council is currently implementing the Master Plan for the regeneration of Flint ("the Master Plan"). The Master Plan was adopted by Cabinet in June 2012, and now forms part of a wider housing and regeneration programme for the whole of Flintshire.
- 2.02 With this in mind, the County Council Housing Overview and Scrutiny Committee in July 2014 gave support to take forward the procurement of new Council and Affordable housing in Flint town centre and across various sites across the county.

Findings of the Market Consultation

- 2.03 The first stage of the procurement process was a market consultation exercise which was carried out during July and August 2014. The market consultation was advertised via Sell2Wales and the European Journal using a prior information notice (PIN). Broadly the aims of the market consultation were to:
- Provide potential bidders with advance notice of the Council's intentions to allow potential bidders to allocate available resources etc;
 - Provide a high level of transparency and assurance of non-discrimination and equal treatment;
 - Test the views of potential bidders whether the proposed strategy and procurement approach are feasible and realistic, and capable of being enacted efficiently with the achievement of value for money;
 - Facilitate the Council's understanding of the likely level of interest in the procurement and the factors which influence this, thereby informing scope adjustments to ensure the maximum level of participation and competition;

- Inform strategy; specification and process development.

2.04 In particular potential bidders were consulted on:

- Relationship and funding models to ensure that outcomes are met;
- The draft commissioning objectives;
- The proposed use of the competitive dialogue process;
- And their likely level of interest and the factors which influence this.

2.05 Potential bidders were given the opportunity to complete a questionnaire as well as meeting with the Council to discuss their views in greater detail.

2.06 6 potential bidders met with the Council and 9 completed the questionnaire. The results of the market consultation were broadly positive in terms of confirming a sufficient level of interest in the procurement and the use of the competitive dialogue process. However the views expressed made it clear that the Council needs to be mindful of the following aspects when scoping the Programme for this interest to be fulfilled:

- The development market is currently buoyant and developers will opt to bid for only the most attractive prospects;¹
- Development of social housing is currently not an attractive prospect;
- Development of brown field sites is currently not an attractive prospect;
- The more strategic the opportunity i.e. longer term structured commitment the greater the interest;
- The greater the value of the opportunity the greater the interest;
- The greater the extent of confirmed feasibility that proposed sites are developable, the greater the interest;
- That tenure mix can constrain development, in that the Programme will need to include the development of market and affordable rented homes (as these allow for increased rental income);
- To maximise the potential for regeneration and the creation of cohesive communities, the Programme should allow for the construction of non-residential properties such as community buildings; commercial and retail units;
- If the Council is prepared to invest land for development on a profit share relationship the greater the interest and new bidders may be attracted if this is included within the scope of the procurement.

2.07 A summary of the market consultation results is attached at Appendix 1.

Emerging National Strategy Framework

2.08 The initial feedback received from the market consultation must also be considered within the emerging national framework:

- Proposals are now well advanced to introduce self financing for Council Housing replacing the Housing Revenue Account Subsidy system. Flintshire has identified a need and aspiration to build new

¹ There is an emerging trend that councils are struggling to create competition for their opportunities with few or no bidders coming forward. Certainly the project team have spoken to over 30 developers / construction partners the vast majority of which have declined to respond.

Council housing for many years and is confident that it will achieve a borrowing limit which will allow the Council to meet the need for stock investment to achieve WHQS by 2020 **and** to commence a new council house building programme. Welsh Government and the Housing Minister are as anxious as the Council to commence this programme as quickly as possible and the SHARP procurement process is a timely opportunity to realise this strategic objective;

- National agenda commitment to social housing, with increased emphasis on the use of private rented accommodation to meet housing need and the desire stated within the Housing Act to end family homelessness;
- Increasing evidence of the need to provide small houses and apartments to help address the need for smaller households to help address the impacts of welfare reform;
- Social Housing Grant funding² is declining (15% reduction from 2013/2014 from £1,758,032 to £1,557,749 in 2014/2015). Plus there are indications that funding take up is being restricted by the financial viability of schemes as homes must be built at social rents to Development Quality Requirement (DQR) standards.³

Flintshire Context

2.09 The local context in Flintshire includes the following considerations:

- That the market rented sector in Flintshire is growing healthily and expected to continue to do so;
- Analysis of the local housing market shows that need to develop rent to buy for those who can sustain home ownership but are currently excluded by the complexities of lending criteria and affordability;
- That the use of the section 106 provision is not always a solution to the provision of affordable homes, as the current Flintshire requirement of 30% affordable housing on new build schemes can make sites economically unviable. (This is because developers have bought the land at higher prices prior to the downturn.) Plus there are indications from the Local Housing Market Assessment (LHMA) are that such affordable homes may not be saleable in the current climate;
- Flintshire's adopted Unitary Development Plan 2000-2015 (UDP) currently has a four and a half (4 1/2) year's supply of land available for housing development. Work has commenced on the development of the Local Development Plan 2015-2030 (LDP) which will replace the adopted UDP. This work will be supported, and informed by a LHMA which has been jointly commissioned with Wrexham County Borough Council to identify future housing need and trends in the housing market;
- There is a high demand for social housing in Flintshire, with 3798 applicants on the Council's Housing Register;

² Funding provided by WG on a 3 year cycle to RSLs to facilitate housing development by assisting with the financial viability of schemes.

³ There is the potential for RSLs to build affordable as opposed to social rent properties but currently only one of the three housing associations in Flintshire intends to take up this option.

- There are also 400 applicants on the Flintshire Affordable Housing Register.

3.00 **CONSIDERATIONS**

Identification of sites for development

- 3.01 On the basis of these background factors (in particular the results of the market consultation), it is clear the value and scope of the Programme is key to the Council securing the right development Partner.
- 3.02 There are a number of strategic options available to the Council in relation to the scope of sites that are to be included within the land available for development. These options are progressive, with 'Future Thinking 2' representing the widest scope, (building on the scope of the 'Initial'; 'Current' and 'Future Thinking 1' Options). These options are set out within Table 1 below.

Table 1: Land Development Options (Strategic Scope)⁴

<i>Initial Thinking</i>	<i>Current Thinking</i>	<i>Future Thinking 1</i>	<i>Future Thinking 2</i>
Social and Affordable Housing in Flint Only	Social and Affordable Housing across Flintshire on Currently Identified Sites	Social and Affordable Housing across Flintshire on Current & Future Sites	Social, Market & Affordable Housing across Flintshire on Current & Future Sites
Up to 125 homes built on 2 to 3 sites within Flint Town Centre.	In addition to 'Initial Thinking' up to 400 homes built on currently identified sites across Flintshire ranging from brown field sites (2/3 homes) to green field sites of up to 1 acre.	(Longer term option to 'Current Thinking') that includes the potential for a medium to long term Contract to encompass the development of future sites.	An alternative 'Future Thinking' option which includes the potential for the inclusion of private housing developments.

Initial Thinking: Development of homes in Flint town centre

- 3.03 At the Executive meeting in December 2011, the Council agreed to stop letting the maisonettes and Council owned garages in Flint town centre to enable the blocks to be emptied and the sites redeveloped. In July 2012 Cabinet gave approval to commence demolition of Flint maisonettes as a key component of the delivery of the Flint Master Plan. A working group was established by the Council's Executive in 2011, and DTZ were commissioned to undertake a master planning exercise. This work included a number of consultation events with

⁴ **Key to Table:** Affordable Housing includes social; LHA and Assisted.

Current and future thinking options include the potential for collaborative working with other local authorities, which opens up the site options to 'Across Flintshire and elsewhere'.

retailers, local businesses, tenants and residents, stakeholders and other potential partners to consider options and the potential for these to be realised.

- 3.04 Initial site assessment and modelling by the Council indicate a projected 125 homes can be built in Flint town centre to progress the Flint Master plan. The proposed tenure mix is as follows;
- **30% Social Rent:** these will be Council houses;
 - **60% Affordable Rent:** higher rent levels than social rents at a level of 80% of market rent to allow property development without public subsidy but tenants are still fully eligible for housing benefit;
 - **10% Rent to Buy:** to support owner occupation longer term.
- 3.05 A development brief for the external features of the new housing in Flint has been approved as supplementary planning guidance by the Council's Cabinet in September 2013. New housing will recreate the original town settlement pattern and improve the local streetscape.
- 3.06 In addition the Council will be developing an innovative design specification to ensure a consistent good quality of internal housing layout. This could form the basis of a 'Flintshire Housing Standard' which will be developed via a consultation process with Elected Members.
- 3.07 All Social Housing will be managed through the HRA and all Affordable Housing will be managed via NEW Homes.
- 3.08 The homes in Flint could represent the entire scope of the development or be the 'anchor' or 'first phase' of a wider development of sites across Flintshire as per the '*Current*' and '*Future Thinking*' options (as below).

Current Thinking: Development of existing sites across Flintshire

- 3.09 As a result of the firm plans to end the HRA subsidy system in 2015, '*Initial Thinking*' has now evolved to the inclusion of further developable sites (in addition to Flint town centre) as part of a phased programme of housing development across Flintshire. This offers a number of benefits, including:
- Adding critical mass and strategic commitment to the contract which will increase developer interest in the opportunity;
 - Allowing the Council to more effectively control housing development via phasing to meet local needs and priorities through an annual development plan;
 - Reducing the costs and time taken to develop housing by virtue of the Programme being delivered without the need for procurement of a development partner for each piece of land;
 - Implementation time will be reduced as the development would be taking place within the context of an existing partnership;
 - Further, as the developer and the Council will have 'learned lessons' from previous developments so shortening the time taken and 'smoothing' the progress of any future developments;
 - Extending the benefits of economies of scale by the adaptation of the 'Flintshire Design Standard';

- A longer term relationship will not limit competition as development could be phased (say £10M a year), which is within the capability of the small to medium enterprise (SME) market;
- Smaller developments are highly likely to be sub-contracted by the developer to the SME market (and potentially this can be discussed further with bidders during the procurement process);
- The relationship would not prevent development by other developers including affordable homes under section 106 provisions.

- 3.10 On this basis a list of potentially developable sites within the Council Fund and the HRA have been identified across Flintshire. In addition, current regeneration plans have pinpointed a number of sites in Flint and Connah's Quay which will form part of the procurement. These sites need to be acquired and are dealt with in the recommendations later in this report. Overall the Council is confident of identifying sites on which 500 homes could be built within a 5 year programme (and potentially more homes should programme length extend beyond 5 years).
- 3.11 Table 2 overleaf provides a breakdown of sites which have been initially identified as suitable for development. These sites will be subject to further detailed site investigation and will form Phase 1 of the Programme. A projected combination of 220 council and affordable housing units could be built on these sites. This is not a full list of all potential developable sites for Phase 1; but covers those which have been reviewed for housing demand/suitability of site to date.
- 3.12 The tenure mix for the homes built within the programme will be determined by the analysis of local needs; site suitability; commercial funding viability and affordability. Land ownership might be problematic to meet tenure needs on a site by site basis and hence there will be some need to acquire land and/or acquire or transfer sites between the council fund and the HRA.

Table 2. Proposed Phase 1 of Council and Affordable Housing Building Programme 2015/18			
Site	No. of HRA Council Units	No. of Affordable Units	Total
The Walks, Flint	30	70	100
Custom House School, Connah's Quay	8	8	16
Land at Llys Alun, Rhydymwyn (Former Primary School)	7	8	15
Former Bowling Green, Trelogon	8	0	8
Maes Meilion Leeswood	6	0	6
Tan y Rhos, Nercwys	6	0	6
Redhall, Connah's Quay	6	0	6
Ffordd Pennant & Ffordd Hiraethog, Maes Pennant Mostyn	0	28	28
Canton Depot, Bagillt	0	25	25
Princess Avenue, Buckley	0	10	10
			220

Future Thinking 1: Affordable Housing across Flintshire on Current & Future Sites

- 3.13 The strategic extent of the relationship could be lengthened to include future sites (which are at the moment unidentified as available for development). Inclusion of future unidentified sites should increase the benefits set out above for the development of existing identified sites. Plus there could be strategic opportunities to engage the developer to provide additional expertise to the Council such as identification of developable land; undertaking feasibility studies etc.

Future Thinking 2: Market & Affordable Housing across Flintshire on Current & Future Sites

- 3.14 Further there is an opportunity to release Council land for market housing development within the partnership which has the benefit of:
- Future proofing the Council's strategic options in relation to the disposal of future packages of land and built assets;
 - Allowing for a development approach which can be strategically integrated with the LDP and Housing Strategy;
 - Raising funds (via profit share with the developer) which could be used to fund affordable homes;
 - Minimising procurement and management costs by allowing the disposal of land within an existing relationship;
 - Maximising the value of land to be disposed of as land would acquire additional value as a result of it being confirmed of being developable / being developed;
 - And there is an emerging market for this type of strategic approach with many Councils successfully opting for a long term relationship.⁵

Funding the development of the new homes

- 3.15 Sourcing the funding of the development of the new homes is a key outcome of the Programme. It has been widely reported that traditional sources of capital funding such as grants to invest in capital schemes have been reduced over recent years. Furthermore, with revenue budgets under extreme pressure, the Programme will need to be self financing: that is, all revenue and capital costs the Programme incurs need to be financed by additional income generated by the new homes built. The affordability of the Programme will be assessed at all stages during the process. The costs of managing the programme will be met from existing budgets.
- 3.16 Whilst a variety of funding sources are already available, these sources are not all applicable to affordable housing. E.g. whilst prudential borrowing financed from the HRA could be used to build new council housing, this method cannot be used to fund affordable housing. Sources of funding most commonly used are

⁵ Over the course of the next few weeks the project team will be following up on reference sites provided by those who attended the market consultation to further enhance the commissioning intelligence which underpins the Programme.

briefly set out in Table 3 below.

Table 3: Existing Sources of Funding		
Funding Type	Description	Applicable Tenures
Prudential Borrowing	Council borrows within agreed limits and repays with interest (typically at a cheaper rate than commercial lending.)	Predominantly social but potentially wider
Capital Receipts	Market sale of land or assets.	
Gifted Units	Developer builds units as part of a private development and gifts units. NEW Homes takes on the management of the units.	Affordable Rent; Market Rent
Section 106	Developer builds units as part of private development and NEW Homes takes on the management of the units.	
Social Housing Grant	Housing Associations are allocated grant assistance from WG to part finance overall development costs of schemes.	Social Rent
Prudential Borrowing financed by the HRA	Housing Revenue Account can be used to fund social housing.	

- 3.17 The procurement process does not at the outset need to specify the source of funding and would seek to source innovative ways to secure the required funding (which would be available in addition to the existing sources detailed above). Broadly any innovative sources of funding will be either via commercial lending (debt in the form of loans, leases, private finance initiatives) or the Council investing land for development and sharing the profits of this with the developer. The potential new sources of funding are detailed in Table 4 overleaf (however more funding sources may emerge after further dialogue with (potential) bidders).

Table 4: Potential New Sources of Funding		
Funding Type	Description	Description
Lease-back	Developer provides funding and builds units which would be managed by NEW Homes. Developer owns units and recoups development/lending costs by leasing the units to the Council. Council lease costs are met via rent receipts. Ownership usually transfers back to the Council at the end of the lease.	Affordable Rent; Market Rent;
Buy-back	Developer provides funding and builds units. Developer retains ownership of units and NEW Homes would manage the units. The Council would have the option to purchase the units after end of an agreed flexible term (say up to 20 years).	Affordable Rent; Market Rent;
Rent to Buy	Developer provides funding and builds units. Tenant occupies on a rent to buy basis (saving for a deposit as a proportion of payments made). NEW Homes would manage units and retain a % of the rental. Council does not at any point own the homes.	Affordable Rent; Market Rent
Profit Share	Council invests land and developer funds and builds units. Council recoups land value by a commensurate share of profits from private home sales.	All types as unfettered funding raised by the sale/ development.
Provision of land for development	Council provides land for development and developer funds and builds units. Payment for land can be under a deferred payment system (rather than profit share from sales units as above).	

- 3.18 In broad terms it is likely that any form of commercial lending or model that sources the funding from a development partner will be at a higher rate of interest than that available to the Council via prudential borrowing. The commercial rate will include the developer's costs to manage the programme (including funding) and the risk that the developer bears in relation to the Programme, (for example, any increase in build costs due to unforeseen circumstances). Should prudential borrowing be used as a source of funding such costs and risks will be borne by the Council. (In addition the necessary capacity and experience of Officers within the Council will need to be considered).
- 3.19 At this stage in the process it is impossible to state with certainty which will prove to be the model(s) which will be best fitted to meeting the commissioning objectives. This is because more certainty will be required in terms of:
- The number of homes to be built;
 - The cost of these homes (i.e. house types; specification and whole life costing);
 - The phasing of developments (and hence when funding will be required);
 - The tenure mixes (and therefore the applicable funding streams which are available for use and how these funding streams affects the viability for the developer);
 - The potential availability (if included within the scope of the

Programme) for the Council to invest land for development and to share the profits with the developer; and if included, the likely value; size and timing of such investment.

- 3.20 Once these factors are known they will be used to inform the procurement process and thereby identify the funding model which best meets the commissioning objectives. (The available options will be those presented by bidders during the procurement process.)

Commercial Relationship

- 3.21 The source of funding will be a significant determiner in identifying the commercial relationship with any potential developer. Table 5 sets out the relationship options available.

Table 5: Relationship Options: Degree of Integration between the Council and Developer

Simplest Model: no integration	Simple Model: low level of integration	Intermediate model: moderate level of integration	Complex model: full integration via a 'joint enterprise'
Construction Contract	Design and Build Contract	Development Contract	Joint Venture Company
Construction partner commissioned to build homes to a design brief drawn up by the Council.	Developer commissioned to design and build homes to meet the Council's specification.	As per a design and build contract but this could also encompass funding future sites. Plus could include a wider range of Services e.g. ID of potential sites; feasibility studies etc.	The formation of a company which would be a jointly owned company by the Council; the Developer and any Funder. Usually Council staff would be outsourced to the JVCo.

- 3.22 **Construction Contract:** Construction partner engaged to build homes to a design brief drawn up by the Council. This is the simplest relationship but relies heavily on Council resource and expertise to provide design brief and oversee the development(s). Often seen as more suitable to schemes which are individually commissioned, which also makes developments more accessible to the SME market. However whilst procurement of partners can be labour intensive a construction framework could be established to minimise delays. A further caveat is that if commercial funding is required, the 'piecemeal' approach may make funding more difficult to source and more expensive, plus there also may be a potential failure to capitalise on economies of scale.
- 3.23 **Design and Build Contract:** For currently identified sites to a design brief provided by the Developer to meet the Council's specification. This relationship recognises and utilises the expertise offered by the developer (who also

assumes more of the risk). Council resource and expertise required to approve the design brief and oversee development (but less so than under a construction contract). Again this is more suitable if schemes are to be individually commissioned and again this may increase costs; time taken; cause difficulties with obtaining commercial funding, and fail to capitalise on economies of scale.

- 3.24 **Development Contract:** the appointment of a single developer for all sites, which could include future identified sites. This relationship further utilises the expertise offered by the developer (who further assumes more of the risk) and is likely to encourage a higher level of commitment and investment from the developer. Plus this relationship could also include a wider range of Services e.g. ID of potential sites; feasibility studies etc. and could also include a 'profit share' element should the Council choose at any future point to provide land for private development (with the developer funding and building the units).
- 3.25 **Joint Venture Company:** Formation of a jointly owned and controlled company by the Council and the Developer (and potentially also any Funder) in proportion to the levels of investment provided e.g. developer assumes commercial risk and the Council would provide the land for development. Council staff would normally be outsourced to the JVCo. Again this relationship is the most complex but maximises the expertise offered by the developer and the rationale behind the model is that both developer and council expertise is maximised through 'joint enterprise'. The JVCo model can also be very commercially attractive to developers as the Council assumes a higher degree of risk and makes a higher degree of commitment to the relationship.
- 3.26 The nature of these relationships make some more suitable than others to accommodate the scope of the land developments proposed within the Programme. The key element in selecting the most effective relationship will be the provision of funding by the developer / funder which would preclude the simplest relationships (i.e. construction and design and build contract) as Table 6 below illustrates.

Table 6: Relationship Suitability Matrix	Construction Contract	Design and Build Contract	Development Contract	Joint Venture Company
Affordable Housing Flint Only	No: cannot accommodate funding	No: cannot accommodate funding	Unlikely: opportunity too small	No: opportunity too small & no profit potential.
Affordable Housing across Flintshire on Currently Identified Sites			Possible: but opportunity may be seen as too small by the market	No: opportunity too small & no profit potential.
Affordable Housing across Flintshire on Current & Future Sites			Yes	No: no profit potential.
Market & Affordable Housing across Flintshire on Current & Future Sites	No: cannot accommodate funding / profit share	No: cannot accommodate funding / profit share	Yes	Yes

- 3.27 The most suitable relationships would be either a development contract or a joint venture company ('JVCo'). Both accommodate funding and the potential to realise profit from the Council's investment of land for development.
- 3.28 The core difference between a JVCo and other models is the shared control (within a separate company) of the development programme between the developer (and any other parties such as 3rd party funders). Strategic decisions would normally be made by the JVCo's partnership board (made up from Council and other party shareholders, with control being held in proportion to the value of investment and commercial risk).
- 3.29 This is in comparison to a Development Contract within which the Council solely makes the key strategic decisions (with the benefit of the advice and expertise of the developer).
- 3.30 The establishment and management of a JVCo can be complex, costly and time consuming, particularly in relation to senior management and executive officers. The extent of costs and time involved may prove to be disproportionate in relation to the extent of profit likely to be obtained by the Council, as the extent of the Council's landholdings which may be made available for development in the future is unclear. Whilst the developer (as part of a JVCo and potentially a Development Contract) will provide expertise and assistance in sourcing land for development, the extent of land available may not merit the establishment of a JVCo.⁶ A development contract may provide a more flexible platform from which profits can still be realised, particularly if the land holding available for disposal is relatively small and uncertain.
- 3.31 Whilst both a Development Contract and a JVCo will involve organisational change, the extent of change necessitated by a JVCo is much greater, often involving the outsourcing of elements of Council services and staff. Pension liabilities can often be a significant factor in negotiations and the scope of the Programme would have to be broadened to include the necessary consultation with staff and organisational redesign.
- 3.32 In comparison a Development Contract offers similar benefits but with a much lower level of integration (in other words organisational change). A client team would have to be established within the Council to manage the contract and commission works within it.⁷

Commissioning Objectives which will underpin the Procurement

- 3.33 Potential bidders were consulted on the proposed commissioning objectives for the procurement which are the essential outcomes of the Programme. They will be used as 'golden threads' which will run through each stage of the procurement. Bidders' proposals will be evaluated (as appropriate for each stage) on how successfully the evidence presented ensures the achievement of the objectives. The commissioning objectives are detailed below and illustrated in the Commissioning Objectives Diagram (attached at Appendix 2).

⁶ The project team are currently investigating the extent of land likely to be available for development.

⁷ The project team are currently investigating the potential structure of a client team.

- Delivery of the Programme in a manner which is responsive to local needs and priorities.
- Quality of Housing which conforms to at least local planning level 3;
- A funding model which provides the initial capital investment for the Developments through borrowing; lease back; buy back options or other arrangements to be recouped through increased income from rents.
- Value for money facilitated by competitive pricing; robust and transparent costings supported by open book accounting⁸; performance reporting and monitoring.
- Workforce and training initiatives.
- Environmental protection and improvements.
- Development of sub-contracting and supply chain opportunities including transparency of opportunities and award procedures including advertisement through Sell2Wales.
- Increased social capital through engagement and consultation with the community.
- Contribution to the regeneration of the economy in Flintshire to support the achievement of the strategic objectives of the Council's Regeneration Strategy: 'a competitive Flintshire; sustainable communities and the creation of employment and skills' (including working with disadvantaged and targeted groups and social businesses).
- Benefits to the community which ensure that the development is designed to be integrated and accessible; tackle poverty and promote quality of life for all, in particular protecting the interests of individuals with protected characteristics; the elderly and children. For example this would be sought through the regeneration of open space and increased community cohesion through volunteering and support for community groups and third sector organisations.
- Contribution to education such as through education-work placements; school visits and volunteering and support for national curriculum topics such as numeracy; literacy; science and careers.

The Procurement Process

Proposed Competitive Dialogue Process

- 3.34 The procurement of the Contract will be subject to the Public Contract Regulations 2006 (the Regulations) as the Council is seeking to commission a contract for Works and Services, the value (at a minimum £12M) is above the current EU threshold for procurements of £4,322,012.
- 3.35 A range of applicable procurement processes are defined by the Regulations (i.e. the open; restricted and competitive dialogue processes). A table is contained in Appendix 3 which compares the features of these processes. Of the applicable processes, the competitive dialogue process is considered to be the most

⁸ In other words, through the Council having access to the financial components of the development: e.g. through the developer sharing details of its costs; charges and profit margins.

suitable for this project as it is designed for the procurement of “particularly complex” contracts.

- 3.36 A description of the proposed process including process maps and timescales can be found at Appendix 4. The competitive dialogue differs from other applicable procurement processes in that it allows for dialogue with bidders to be conducted during the tender process, so allowing us to develop the scope of the Programme; shape and specification of the Service and the funding model to be used.
- 3.37 This also allows for concurrent work streams, for example, in respect of housing design specification; funding model appraisal and suitable terms and conditions to be conducted alongside the procurement (to strict deadlines which align with the procurement process). Positive to very positive feedback was received from the market consultation in respect of the proposed process and its usage was broadly welcomed.

Next steps

- 3.38 In accordance with the indicative timetable, it is proposed to advertise the procurement (via Sell2Wales and the European Journal) on the 25th September 2014. The process will identify the Preferred Bidder during April 2015, aiming for contract award in early May 2015 (after Cabinet approval has been obtained). The aim would be for a start on site during the autumn 2015.
- 3.39 A strategic risk assessment has been completed in conjunction with the Council’s risk management unit (attached at Appendix 5). The strategic risk assessment is supported by additional assessments of operational; funding; procurement and communication risks. These assessments will be reviewed and updated on a monthly basis throughout the Programme.
- 3.40 There are 6 review points built into the procurement process to ensure effective governance of the process of the procurement. These review points take place:
- Prior to the commencement of the market consultation (Cabinet report of July 2014);
 - Prior to the commencement of the procurement (this report);
 - Prior to the confirmation of bidders who have passed the selection criteria and have been ‘long listed’ at the end of the PQQ stage (Review by Project Leads);
 - Prior to ‘short listing’ at the end of the Refined Solution Stage (Review by Project Leads);
 - Prior to confirmation of the Preferred Bidder at the end of the Final Tender stage (Review by Project Leads);
 - Prior to contract award (Cabinet report April 2015).
- 3.41 The governance of the procurement process is a discrete process from strategic consultation with Elected Members on the desired outcomes from the process i.e. sites for development; affordability; budgets and capital expenditure; funding sources; design standards and housing models.

- 3.42 In addition to the strategic consultation, regular briefings on the progress of the procurement will also be provided to Elected Members.

Collaborative Procurement

- 3.43 Early dialogue is underway with other local authorities across North Wales to discuss whether they wish to join Flintshire as collaborative partners in the procurement. The benefits of collaboration include the potential to increase critical mass; gain greater benefits from economies of scale; share knowledge and expertise and share procurement and administration costs (by for example Flintshire charging a 'usage fee').
- 3.44 Whilst this interest is at an early stage (and indeed may not occur),⁹ to avoid breaching European procurement regulations, any authorities wishing to participate in a contract must be named (either by specific reference or reference to a group or class) and an estimate of their likely expenditure included in the contract notice in the European Journal.¹⁰
- 3.45 Participation in the work involved in the procurement process would be optional, particularly as it is Flintshire's stipulation that it will be unable to extend the timescale for the procurement. However, should any other authority wish to participate then accordingly the specifications; terms of the contract, funding and the relationship would be more likely to reflect their requirements. Having said this, a degree of flexibility (the extent of which depending on the relationship model selected), would be built into the contract in any case.
- 3.46 The risk to the Council of adopting this approach (in terms of challenge from aggrieved bidders (inc. potential bidders) and the European Commission) is extremely small.¹¹ Each authority wishing to use the contract would carry out its own due diligence exercise on its ability to participate based on the details contained within the contract notice and contractual documents. Flintshire's consent to the entry of any new authority would have to be gained prior to their contract usage (according to Flintshire's governance arrangements).

4.00 RECOMMENDATIONS

Cabinet is asked to approve:

- 'Future Thinking Option 2' as the strategy for the Programme;
- The use of a development contract model for the reasons outlined in the report as most suitable for the Programme;
- The procurement of the Programme using the competitive dialogue process and to report back to Cabinet for approval of the preferred

⁹ Evaluation of bidder capability to fulfil the size of the contract would be evaluated within the procurement on the basis of expenditure as confirmed at that point. The Contractors capability to provide works and services to other authorities would be confirmed at the point at which any interest was received.

¹⁰ The guidelines within the OGC's public Policy Note 16/10 08 September 2010 for naming participating authorities will be followed.

¹¹ As potential members and usage predictions will be transparently and heavily caveated and OGC guidelines (as above) will be followed.

partner;

- That the procurement process and contract are structured in a way which can include the scope for collaborative partners to use the contract;
- That the Chief Officer for Community & Enterprise and the Corporate Finance Manager be given authority in consultation with the Leader and the Housing Portfolio Holder to draw up and implement a funding plan to finance the Programme;
- That the Chief Officer for Community & Enterprise and the Corporate Finance Manager be given delegated authority in consultation with the Leader and the Housing Portfolio Holder to acquire and/or transfer land between the HRA and the Council Fund in order to ensure that the tenure of the proposed houses best meets the needs of the locality in which they are built;
- That approval is given for key strategic sites (as identified through the SHARP Programme and where budget provision has been made) to be purchased for Housing Development in consultation with the Leader and Housing Portfolio Holder;

5.00 FINANCIAL IMPLICATIONS

- 5.01 Site acquisitions will be made through budget identified for this purpose. This will include utilisation of the Vibrant and Viable Places Programme, Housing Revenue Account and could also include Commuted Sums budgets (subject to policy approval).
- 5.02 As set out in the report, in particular 3.14 – 3.20.

6.00 ANTI POVERTY IMPACT

- 6.01 Each of the models will provide additional housing and would therefore have a positive anti-poverty impact.

7.00 ENVIRONMENTAL IMPACT

- 7.01 All council housing built will be built to the Welsh Government's "Development Quality Requirements" (DQR) housing standards. All new Affordable housing will also be subject to Building Regulations relating to energy efficiency and sustainability standards.
- 7.02 A sustainability risk assessment has been undertaken. The environmental track record and capability of bidders to assure good practice will be assessed at the PQQ stage of the procurement and the environmental impacts of bidder's proposals will be evaluated as part of the Refined Solution and Final Tender stage of the procurement.

8.00 EQUALITIES IMPACT

- 8.01 An initial equalities impact assessment has been completed, which will be reviewed frequently throughout the process. There are no negative equality implications arising out of this report. However the equalities impact assessment recognises that there are many positive implications: including increased provision of homes to tackle homelessness; increased and improved provision of accessible homes for the disabled and elderly.
- 8.02 In addition, the project aims to create a more cohesive and accessible community through improved street layout and accessibility within Flint town centre (as set out in the Masterplan).
- 8.03 Increased social capital will be gained through engagement and consultation with the community (including a bilingual requirement for all communications).
- 8.04 Further social capital to be realised through training; employment and education opportunities which will include targets for opportunities for young people. Further, there will be transparent and accessible supply chain opportunities including targets for social businesses and community groups.
- 8.05 Plus, there will also be targets in relation to the achievement of wider community benefits such as volunteering and support for community groups and third sector organisations. There will also be scope for innovative proposals from bidders as to how further social and community benefits could be gained.
- 8.06 The equalities track record and capability of bidders to assure good practice will be assessed at the PQQ stage of the procurement and bidder's proposals to ensure the achievement of equalities will be evaluated as part of the Refined Solution stage of the procurement.

9.00 PERSONNEL IMPLICATIONS

- 9.01 The resources required for the procurement have been estimated at 800 days inclusive for all officers and external support. The project will require support from external financial; legal; technical and procurement advisers. A programme manager and an interim procurement manager have been in post since June. The Council's existing technical advisers will be used for ad-hoc advice and a tender process for financial and legal advisers will be commenced once approval has been obtained.
- 9.02 There will also be implications for internal staffing structure in terms of the formation of the team to commission; manage performance; support and oversee the development works going forward. Whilst the structure and nature of the team required will depend on the relationship approved, the importance of establishing an appropriate team cannot be understated. As without it, then it is highly likely that the envisaged benefits will not be realised from the contract; commissioning objectives will not be achieved; costs may increase and ultimately the contract may fail.
- 9.03 As previously discussed the preliminary work required to inform the design of a sufficiently resourced and structured team to manage the works going forward is currently being undertaken by the project manager. This work will be progressed

as part of an implementation / mobilisation when the relationship model to be utilised is confirmed. This work will link into the transformation programme to be undertaken within the Corporate Procurement Unit in terms of the establishment of a category management approach and the overall programme of corporate transformation.

10.00 CONSULTATION REQUIRED

- 10.01 As above, there are 6 review points built into the procurement process to ensure ongoing approval for the developing Programme strategy.
- 10.02 In addition strategic consultation with Members will be required. In particular, further consultation will be carried out with Members to confirm the design specification of the homes in terms of confirming the appropriate building code level and any specific design features to be applicable to homes in Flintshire. The aim is to create a 'Flintshire Homes Design Standard'.
- 10.03 Consultation with the local community (including community groups) will be undertaken with support from the Council's Equalities Unit.

11.00 CONSULTATION UNDERTAKEN

- 11.01 Most recently at the Council's Overview and Scrutiny Committee in July 2014, Elected Members gave support to take forward the market consultation prior to the procurement to enable the development of new homes in Flint town centre and for a Council and Affordable Housing building programme across Flintshire.
- 11.02 Market consultation has taken place during July and August to gather bidders' views that the proposed approach is feasible and efficient and likely to achieve the value for money.
- 11.03 Extensive consultation has taken place with the local community in Flint to develop the agreed vision and outcomes as per the Flint Master Plan.

12.00 APPENDICES

Appendix 1: Market Consultation Results Summary
Appendix 2: Commissioning Benefits Diagram
Appendix 3: Procurement Process Comparison Table
Appendix 4: Guide to the Competitive Dialogue Process
Appendix 5: Strategic Risk Assessment

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985 **BACKGROUND DOCUMENTS**

None

Contact Officer: Clare Budden
Telephone: 01352 703800
Email: clare.budden@flintshire.gov.uk