

## Summary Sheet

### Council Meeting:

Cabinet and Commissioners' Decision Making Meeting – 12 September 2016

### Council Report:

Site Cluster Tender Award

### Is this a Key Decision and has it been included on the Forward Plan?

Yes

### Strategic Director Approving Submission of the Report

Anne-Marie Lubanski, Strategic Director for Adult Care and Housing

### Report Author(s)

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### Executive Summary

On the 4 February 2015, (Minute no C137 – Developer Selection) Cabinet agreed to the procurement of a Development Partner to undertake development across seven Housing Revenue Account sites, known as 'The Site Cluster Programme'

The Cluster approach is an important part of the Council's Housing Growth agenda ensuring an increase in number of new homes built by making the best use of public land (viable and unviable sites) for residential development. The approach provides an opportunity to ensure new housing is built on sites that would otherwise be left undeveloped and in doing so, address local housing needs. The Rotherham Housing Strategy has identified new housing development as a priority, together with new specialist housing provision and this report aligns with these, proposing to build 97 homes for outright sale and a further 88 specialist and affordable homes.

The report sets out details of the procurement process undertaken, summarises the tender responses and provides details of the evaluation process. The report seeks approval to award the contract and in doing so allow the pre-development stage works to proceed, which will be financed by the Council. A subsequent report will be provided relating to the construction stage having secured planning approval and finalised the contract development agreement and HRA funding requirements

This proposal will enable development of the following sites;

- Braithwell Road & Gaitskell Close, Maltby
- X2 sites on Rother View Road Canklow
- Conway Crescent & Farnworth Road, East Herringthorpe

- Shakespeare Drive Dinnington

A formal procurement process was followed using the Homes and Communities Agency's (HCA) Delivery Partner Panel 2 Model (DPP2) to identify the preferred tenderer.

The formal two-stage process started with the Expression of Interest (Eoi), with five Panel Members expressing an interest in the competition. The second stage was the Invitation to Tender (ITT) stage; this resulted in three tender submissions (submitted on 18th April 2016). The ITT emphasised a requirement for an innovative approach to find the most advantageous way of developing across all seven sites without leaving any sites undeveloped.

The tenders have been evaluated and assessed by a team of RMBC staff comprising of Procurement, Housing, Planning and Finance officers. The completed tenders were evaluated against pre-determined award criteria. The evaluation of bids applied a weighting mechanism of 70% to quality (comprising 30% to quality and 40% to delivery) and 30% to finance. The preferred tenderer scored consistently better than the other two tenderers, the details contained in the exempt appended documents to the main report

Upon acceptance of the proposal, the next stage will involve detailed negotiations regarding the terms of the appointment via a development agreement and commencing site investigations and planning applications for the sites. Subject to approval of this report the time table would be to obtain planning approval by mid May 2017 and achieve a start on site in the summer of 2017.

### **Recommendations**

1. That the tender submitted by the preferred developer, dated 18 April 2016, be accepted for the site cluster programme.
2. That the Assistant Director of Legal Services be authorised to finalise the development agreement.
3. That all predevelopment costs associated with securing planning permission and enabling construction works to commence be funded by the Council.
4. That a further report be submitted for approval of the development programme, development agreement and financial arrangements following the conclusion of negotiations with the preferred developer.

### **List of Appendices Included**

Appendix 1: Minute no.C137 – Developer Selection to build on a Multiple of HRA sites.

Appendix 2: Site Details

Appendix 3: Financial/Commercial information

Appendix 4: Cost Comparisons

Appendix 5: Preferred developer partner – RMBC Model Diagram

Appendix 6 : Overall Tender Bid Scores

Appendix 7 : Sensitivity Table

Appendix 8: Exempt - Employment and Skills Outputs

**Background Papers**

Minute no C137 – Developer Selection to build on a Multiple of HRA sites. (Please see Appendix 1)

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

Main report is public

All Appended documents are Exempt

## **Site Cluster Tender Award**

### **1. Recommendations**

- 1.1 That the tender submitted by the preferred developer, dated 18 April 2016, be accepted for the site cluster programme.
- 1.2 That the Assistant Director of Legal Services be authorised to finalise the development agreement.
- 1.3 That all predevelopment costs associated with securing planning permission and enabling construction works to commence be funded by the Council.
- 1.4 That a further report be submitted for approval of the development programme, development agreement and financial arrangements following the conclusion of negotiations with the preferred developer.

### **2. Background**

#### **2.1 Procurement Process Undertaken**

- 2.1.1 Approval was granted on 4<sup>th</sup> February 2015, Minute C137 (Appendix 2) to procure a development partner via the HCA's DPP2 framework to commence residential development across seven Housing Revenue Account sites. A series of sites (viable and unviable) in various locations have been presented to the market collectively to appoint a developer who will work across all seven sites to deliver a range of housing. *Appendix 1 exempt item – Minute number C137; Developer selection to build on multiple HRA sites.*
- 2.1.2 Detailed site appraisals were completed by the Corporate Property Unit (Estates Team) with direct consultation with Planning, Green Spaces and Transportation departments. This detailed information was used to compile the Expression of Interest and Invitation to Tender documentation.
- 2.1.3 The seven sites were marketed as a cluster of sites via the Homes and Communities Agency's (HCA) Delivery Partner Panel 2 (DPP2). The Delivery Partner Panel 2 (DPP2) is a Framework panel of prequalified housing developers that accelerates the procurement process for the construction of residential and mixed-use development on public sector land. DPP2 provides a simple, speedy and OJEU compliant procurement route via mini competition. All works procured through the Framework are subject to a mini-competition with a project tendering procedure to select the best Panel Member to undertake the work. *Appendix 2 exempt item - Site details.*
- 2.1.4 Prior to the two-stage formal process an informal "Bidders Day" event was held in September 2015 to inform the Panel Members of the forthcoming opportunity. The event provided Panel Members with an overview of the sites, including site plans, an indication of the local housing need and how Rotherham Council envisaged the sites were to be developed – all Panel Members were advised that the Council was looking to pilot new ways of working to enable innovation. The event was well attended and received positive feedback.

- 2.1.5 The formal two-stage process started with the Expression of Interest (EoI), with five Panel Members expressing an interest in the competition. The second stage was the Invitation to Tender (ITT) stage, which resulted in three tenders being submitted on 18<sup>th</sup> April 2016. The ITT emphasised a requirement for an innovative approach to find the most advantageous tender, to identify the most appropriate development partner offering the best all round solution to fulfilling the Council's vision for the redevelopment of the sites. Submissions were received from three tenderers.
- 2.1.6 The tenders have been evaluated and assessed by a team of RMBC staff comprising of Procurement, Housing, Planning and Finance officers. The completed tenders were evaluated against pre-determined award criteria.
- 2.1.7 In planning terms, all the sites included in the cluster have been assessed by Planning Service as being suitable for residential development. The criteria based assessment included consideration of the planning merits of the schemes, assessing the proposals in terms of design, density and layout and compliance with Planning policy and guidance such as the South Yorkshire Residential Design Guide in relation to spacing standards etc. It is considered that taking the sites through the pre-application process will assist to ensure the detailed schemes can be supported in Planning terms.
- 2.1.8 All bids were assessed on the basis of quality, delivery and price. The evaluation of bids applied a weighting mechanism of 70% to quality (comprising 30% to quality and 40% to delivery) and 30% to finance. The evaluation matrix was shared as part of the ITT including details of the weighting criteria. The ITT specified that the contract would be let to the bidder who presented the most economically advantageous and all round solution. *Appendix 6 exempt item - The completed evaluation table, showing the overall tender scores*

### 3. Key Issues

The returned ITT's have been scored as follows:

Tenderer	Quality	Finance	Overall score	Position
Tenderer A - PREFERRED	620	240	860	1 <sup>st</sup>
Tenderer B	551	180	731	2 <sup>nd</sup>
Tenderer C	483	120	603	3 <sup>rd</sup>

#### 3.1 Brief Summary of Tenderer B and C submissions

##### 3.1.1 Details of the Tenderer B Submission

- The submission was evaluated and ranked second place for both quality and finance.

- The proposal was to deliver a total of 219 units across the seven sites. Whilst the submission presented the highest number of units, it scored low on design – the Planning Development Manager and the Urban Designer advised that the architectural designs would require significant amendments due to limited consideration of the topographical challenges, an excess of rear parking courts and smaller house types than suggested in the ITT, using the findings of the Strategic Housing Market Assessment (SHMA). The required amendments would result in a decrease in the overall number of units.
- The submission proposed a total of 165 units for open market sale, of which 115 were proposed for sale on Site 1: Braithwell Road, Maltby. On the remaining six sites, proposals were for 50 for open market sale, leaving 54 for affordable housing.
- In delivering mixed tenure homes, Tenderer B proposed working with a Housing Association.
- Tenderer B estimated a residual land value of £1,280,173 in respect of Site 1, with an overall subsidy requirement of £1,280,385. This is not a direct comparison with the other bids received as this proposal works with a Housing Association who will manage the affordable housing provision, rather than being offered to the Council.

### **3.1.2 Details of Tenderer C Submission**

- Following the evaluation process, the submission from Tenderer C was ranked third place for both quality and finance.
- The proposal was to deliver a total of 196 units across the seven sites; however it also scored low on design - the Planning Development Manager and Urban Designer advised that the submitted designs were not site specific and insufficient consideration was given to the topographical challenges of several sites, therefore design amendments would be essential.
- Tenderer C proposed that 95 units for open market sale on Site 1: Braithwell Road, Maltby with only 8 units for flexible tenure. On the remaining sites they proposed 101 units for flexible tenure with options to market up to 52 properties for open market sale either as outright sale or shared ownership.
- Tenderer C have estimated the residual land value for Site 1 to be £68,851 with the overall subsidy or contribution required totalling £5m in respect of the 7 sites. In addition, no allowance has been made for Section 106 contributions or CIL costs.

## **3.2 Details of the preferred tender submission – Tenderer A**

- 3.2.1 The proposal from Tenderer A offers to deliver 185 new homes across the seven sites, which will remain in RMBC ownership. Whilst this is the lowest number of housing units offered overall, there is scope to increase the housing numbers on several sites with design variations. Tenderer A has appointed architects, who have designed the schemes, which include three large specialist housing units - subject to planning approval.

- 3.2.2 The Planning Development Manager and Urban Designer confirmed that the submission showed a good assessment of the sites with a good demonstration of the key requirements including the topographical challenges. They have presented well laid out housing proposals, compatible with neighbouring developments and incorporating a good use of space. Tenderer A scored the highest on both quality and price, putting them in first position.
- 3.2.3 The offer from Tenderer A is based on a “Development Agency Model” (DAM), which uses a design and build methodology. They will take the role of a developer agent for the Council with RMBC funding the development activities – these include construction overheads at 5.5% and their contractor’s margin of 2%, paid on a monthly basis, and from generated sales revenue. This is the most competitive margin offered of the three tenders. An independently appointed Employers Agent (acting on behalf of RMBC) will further validate all costs.
- 3.2.4 The total build cost for the open market sale units on site 1 – Braithwell Road, Maltby was the lowest of the three submitted tenders. *Appendix 4 exempt Item - Sets out cost comparisons.*
- 3.2.5 The open market sale units are proposed to be marketed and sold by tenderer A in consultation with RMBC, via their experienced sales team. The sales revenue will be provided directly to RMBC (excluding a developers margin) to cross subsidise the development. This will help to keep RMBC’s cash flow requirement to a minimum level. By accepting the developer risk, the Council will receive the majority share of the sales revenue - any surplus generated will be calculated and shared on completion with RMBC receiving a majority share of the surpluses.
- 3.2.6 Tenderer A will also provide the aftercare to all the homes built on the site for two years after practical completion.
- 3.2.7 An initial land value to RMBC has been estimated in this tender for Site 1, Braithwell Road, Maltby, which is the highest of all three tender submissions. The value of this land is likely to change over the course of the development as build and sales prices move with the market.
- 3.2.8 This DAM approach to development has been used successfully by the Homes and Communities Agency (HCA) on Bearbrook House, Aylesbury and they were rewarded by higher development returns than if they had sold their land to the highest bidder, remaining in control of key aspects of the development such as quality, sales pricing strategy and pace of development. The HCA were estimated to receive £2m as the total land payment compared to the original bids and valuations of circa £1.1m. *Appendix 5 exempt item – Rotherham Diagram*
- 3.2.9 Site 1, Braithwell Road, Maltby has the highest anticipated residual land value; therefore the proposal anticipates maximising open market sales on the site with 97 units for sale. This in turn will help to cross subsidise the developments on the remaining six sites, helping to reduce the overall required development funding. Initial planning advice at the Invitation to

Tender stage confirms that the eight Council houses built on Newland Avenue, (completed 2011) form part of the overall 25% affordable housing offer. It is proposed that the remaining affordable housing requirement will be achieved by the delivery of up to sixteen starter homes (discounted for sale by 20%) on the site. This will be subject to discussion with the developer and government as the financial impact of this starter homes proposal is not currently reflected in this bid.

3.2.10 The 88 units on the remaining six sites will be developed for RMBC to acquire and offer as a wide range of affordable housing tenures. The details are still to be negotiated and finalised. Tenderer A will work in partnership with the Council to deliver a range of affordable tenures such as Starter Homes, Rent to Buy, Shared Ownership and Open Market Sale.

3.2.11 The indicative development period proposed is 3 years.

### **3.3 Key Benefits**

3.3.1 There are significant benefits to this approach, these include:

- RMBC will have confidence in the delivery of at least 185 dwellings across the seven sites and will have total flexibility on the development programme, open market sale properties and the range and type of affordable housing offered to meet the needs of the local communities. This will allow RMBC to control the amount of properties being released to the market to reflect market conditions and potentially put the development on hold in the event of a wider housing market downturn.
- RMBC will work with tenderer A to further develop the concept of specialist housing provision for young people. The proposed three specialist housing units will help to address the specialist housing need that has been identified in the borough for young people.
- RMBC will receive the majority share of any developer's profit on the schemes, through retaining the development value of the land. The DAM model sets out overages to be shared with the Council – RMBC will receive 90% of the residual land value and 90% of any increase in returns generated through this model.
- RMBC is able to obtain a more competitive borrowing rate on finance than Tenderer A – this would result in less interest being paid and a higher residual land value / surplus being generated for the Council than if the developer funded the development.
- There will be greater transparency and control of the project.

3.3.2 The detailed site investigations will be commissioned by Tenderer A and funded by RMBC. The completion of the surveys will ensure that detailed designs can be produced. Tenderer A will secure detailed planning approval for the project (with costs underwritten by RMBC) and then design, develop and manage the sales of the new homes on behalf of RMBC, who will remain land owner.

3.3.3 This report is seeking approval to appoint Tenderer A as the contractor to take forward the preliminary stages of the project – this will allow detailed analysis

and negotiations of their proposals and allow RMBC to consider the overall funding requirements.

- 3.3.4 The tender submission proposes that there is a peak cash flow requirement of the Council for the development of the seven sites of £6.9m estimated in month 22 of the development.

### **3.4 Drawdown Contracts: Development Agreement**

#### **Why is a Development Agreement required?**

- 3.4.1 All developments procured through the DPP2 framework are subject to individual drawdown contracts. In order to ensure compliant procurement, three forms of drawdown contract have been suggested by the HCA:

- DPP2 Building Lease
- DPP2 Development Agreement
- JCT Design and Build Contract

These options were specified during the procurement process as the drawdown contracts, therefore it is important that one of these documents is used. The contract formalises the agreement between the developer and RMBC and references the commitments that have been made within the Tender submission. This document helps to mitigate any risks that may occur during the development of the sites. The phasing plan is drafted in three phases and will help to manage any risks.

- 3.4.2 The project specific drawdown contract for the 7 site cluster is likely to be in the form of:

- Homes and Community Agency (HCA) DPP2 Development Agreement

A draft development agreement was prepared by an external legal practice, Squire Patton Boggs, using the specification provided by RMBC's as a basis. This was shared with bidders at the ITT stage to ensure that all bidders could formulate their tender responses in possession of all current facts. The draft development agreement will require further amendments through discussion with Wates Living Space, will be tailored to meet the project specific requirements and will exist in conjunction with the HCA Framework Agreement.

RMBC intends to agree and exchange contracts within ten weeks of the selection of the delivery partner.

#### **Principles of the Project Contract**

- 3.4.3 Using external legal advisers the Council will enter into a conditional development agreement with Tenderer A. Upon finalisation of the development agreement the partner will commence the preparatory work in order to satisfy the conditions set out in the development agreement.

- 3.4.4 Tenderer A is required to secure planning permission based on a final agreed plan for the site cluster. They will also be required to confirm the phasing scheme and obtain RMBC consent, and finally secure detailed planning permission for each phase in accordance with the agreed programme.
- 3.4.5 At this stage a further report will be submitted to Cabinet, seeking approval of the development programme, development agreement and financial arrangements following the conclusion of negotiations with Tenderer A.
- 3.4.6 The development agreement will only become unconditional following approval of the second Cabinet report to approve the development programme, development agreement and financial arrangements.
- 3.4.7 Following Cabinet approval, RMBC would grant a building licence to deliver the Site Cluster development in accordance with the agreed phasing plan and development agreement.

### **The key roles and responsibilities of the Delivery Partner**

- 3.4.8 The Developer must:
- Deliver a scheme that meets the aspirations of RMBC and the local community
  - Meet all design requirements specified in the ITT
  - Comprehensively engage with the local community at all stages of the project via consultation events and use of social media to reach a wider audience.
  - Contribute to the local economy through proven labour contracts and create apprenticeship schemes – please see Appendix 7 for Employment Skills Outputs.
  - Obtain all required planning permissions
  - Obtain all building regulations consents
  - Enter in to the relevant agreements with the Highway Authority and Water Authority.
  - Secure all site boundaries via installation of fencing and hoardings.

## **3.5 Council funding for the predevelopment costs**

### **Surveys and Site Investigations**

- 3.5.1 In order to complete the Design and Planning stages, early engagement is critical to ensure that the start on site date is achieved in June 2017. Under the terms of the preferred tender RMBC is required to underwrite the pre-development and planning stage costs, in the event of the project not proceeding. These are currently estimated at £335,000. The early activity will be through the site investigations, utility searches, historic records and desk top studies, supplemented by an intrusive Phase 2 Site Investigation. These activities will inform the design team of any specific drainage requirements and ground conditions that need to be incorporated or designed out of the scheme. The detailed site surveys will reveal any further constraints such as tree preservation orders that could affect the final layouts and levels of the

properties. These activities are essential for a detailed design to be prepared and shared at pre-application stage meetings with the planning department.

#### **4. Options considered and recommended proposal**

- 4.1 As detailed above, the evaluation process has been completed following the receipt of the Invitation to Tender on 18<sup>th</sup> April 2016.

Having considered all aspects of the submissions, the tender considered to be the most economically advantageous to RMBC was provided by Tenderer A. A detailed evaluation process has been completed with the comparable details recorded in a table. *Appendix 6 exempt item – Overall bid scores.*

- 4.2 The ITT evaluation was completed by officers from Procurement, Strategic Housing Investment Services, Adult Care and Housing, and Finance and Customer Services.

- 4.3 At the clarification interview, with Tenderer A, RMBC asked a series of questions about what impact there would be on the offer with regards to the baseline offer and the proposed overage/risk sharing model, if the developer funded the development themselves.

Tenderer A provided cash flow and sensitivity charts for both options which are contained in *Appendix 7 exempt item – Sensitivity tables*

- 4.4 Under both scenarios RMBC will be funding the new affordable homes on the remaining sites. Of these, three units are proposed for specialist housing provision for 16-18 year old care leavers. Discussions are taking place with Children and Young Peoples Services to confirm specific requirements.

- 4.5 Of the eighty-five remaining units, the Council anticipate that up to forty of these can be developed as starter homes – this will provide a slightly increased income for the Council and more importantly will allow the Council to prioritise the housing needs of first time buyers under the age of 40 to meet their aspirations of buying their own home. Homes will be sold to the buyer at 20% below their market value and subject to the buyer occupying the property for five years; they will have nothing to pay back for the discount at the point of resale.

- 4.6 The Government has a manifesto commitment to build 200,000 starter homes by 2020 and is now introducing a comprehensive package of planning reforms and funding initiatives to achieve this. In early 2016, the Chancellor announced a new £1.2 billion Starter Homes Land Fund to help prepare brownfield land for starter homes. RMBC has submitted an expression of interest in May 2016 to deliver an ambitious Starter Homes programme primarily in Rotherham Town Centre. Whilst an announcement is awaited from Government about the outcome of the bid, detailed discussion with Local Partnerships and the Homes and Communities Agency have resulted in the preparation of information related to sites outside of the Town Centre that could be identified for starter homes development – these include sites from the Sites Cluster programme. The starter homes development will offer a new

form of housing ownership and compliment activity in the Sites Cluster programme.

- 4.7 The remaining forty five units could be acquired as Council rented properties, shared ownership or some other form of affordable housing tenure. Following Cabinet approval, the Council will finalise the details in the coming months.

## **5. Consultation**

- 5.1 The Finance Manager, Regeneration & Environment and Capital within Finance and Customer Services was involved in the tender evaluation process and has contributed towards the production of the report, supporting all recommendations.
- 5.2 The Procurement Category Manager within the Finance and Customer Services has managed the tendering process and has contributed to the production of the report, supporting all recommendations.
- 5.3 The Legal and Democratic Services have been involved in the overall Site Cluster process. The report has been shared with the Legal Department and they are in support of all recommendations.
- 5.4 The report has also been shared with the Councils Human Resources Business Partner within Adult Care and Housing Team – all recommendations have been supported.
- 5.5 The report has been shared with the Deputy Strategic Director of Children and Young Peoples Services.
- 5.6 Briefing Notes have provided updates to the Commissioners and Cabinet Member for Housing.
- 5.7 In certain localities, with established forums, such as the Dinnington Where We Live Forum and the Maltby Housing Forum information has been provided about the progress on the Site Cluster process.
- 5.8 The report has been shared with the Housing and Neighbourhood Services Senior Management Team on 12 July 2016.
- 5.9 The report has been shared with the Planning and Building Control Manager – all recommendations have been supported.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 The Assistant Director of Housing & Neighbourhoods will have accountability for the successful implementation of this project.
- 6.2 Tenderer A has produced a detailed programme of works and the pre-construction works could commence immediately if approved.

6.3 Indicative Timetable - to be finalised following approval:

Key Tasks –	Duration	Start	Finish
<b>Stage 1 – (following approval)</b>			
Pre-construction works	10 weeks	26.09.16	28.11.16
Development Agreement finalisation	10 weeks	26.09.16	28.11.16
Site Investigations	10 weeks	26.09.16	28.11.16
Scheme Design and layout finalisation	16 weeks (plus 2 weeks Xmas closure)	26.09.16	23.01.17
Planning Application Process	24 weeks	21.11.16	15.05.17
<b>Stage 2 – (following 2<sup>nd</sup> report in May 2017)</b>			
Start on site – Phase 1	129 weeks	29.05.17	05.11.19
Start on site – Phase 2	85 weeks	26.06.17	01.02.19
Start on site – Phase 3	45 weeks	26.11.18	01.10.19

## 7. Financial and Procurement Implications

### 7.1 Financial Summary

Anticipated Income	Amount
NHB (6 yrs)	£1,542,224
Council Tax (6 yrs)	£1,357,422
Sales Revenue (Braithwell Rd) (expected - month 18)	£3,800,000
<b>Income Total</b>	<b>£6,699,646</b>
<b>Estimated Expenditure – Council Required to Underwrite</b>	
Pre-development costs from HRA budget (required immediately to proceed) – Will only be incurred if the scheme is aborted, otherwise will be off-set against the Sales Revenue paid to the Council	£335,000
<b>Expenditure Total</b>	<b>£335,000</b>

7.2 Finance Principles - Under the proposal by Tenderer A, the Council are required to fund the development. Therefore, there is a peak cash flow requirement in respect of Site 1 – Braithwell Road, Maltby of £3.4m in month 8 of the development. The Cash Flow enters a surplus position by month 18, so the Council will be required to provide cash flow funding over this 18 month period. Based on a short term interest rate of 1%, the estimated cost to the Council would be £25k and as identified in 4.3 under the alternative proposal that Tenderer A fund the scheme there is a reduction in land value to the Council of £500k.

7.3 The proposal allows the receipts from the private sales units to subsidise the purchase by the Council of HRA affordable homes. This would require the Council to earmark the capital receipts for this purpose. On the basis of the table in 7.1 above estimated receipts of £3.8m would be available to support these purchases. Appendix 7 identifies the land value that would be received

by the Council if the assumptions on sales values or build costs changed. Under this scenario, funding for the properties will be required from the HRA Capital Programme Strategic Acquisitions budget. The budget for 2017/18 is £7.15m. Of this, £5.1m is currently unallocated. No budgets have been set for 2018/19 and beyond at this stage. Alternative ownership options are also available, such as starter homes or shared ownership schemes, this would reduce the Council's HRA capital requirement. In addition, the Authority should explore alternative ownership models outside the HRA which will protect the properties from Right to Buy legislation. As identified in recommendation 1.4 a report will follow to Cabinet/Commissioners Decision Making Meeting on conclusion of the negotiations with Wates Living Space and the finalisation of the financial package.

- 7.4 New Homes Bonus (NHB) will be generated through the development of the 185+ properties in Rotherham; the NHB is currently paid each year for 6 years and is based on the amount of extra Council Tax revenue raised for new build homes. There is also an extra payment for providing the 88 affordable homes; this is calculated at £350 per property. Therefore over the 6 year period, the total Council income generated is estimated to be £1,542,223.92.

The NHB is subject to consultation, with a possibility that that the grant period will be reduced from 6 years to 4 years. This would increase the viability gap further as the total NHB (including the affordable housing premium) would reduce to £1,028,149.28 if payable for only 4 years.

The Finance Manager has confirmed that Medium Term Financial Strategy assumes growth in the tax base of around 1% per annum therefore the estimated amount may be less.

- 7.5 Additionally each new property will generate Council tax; the estimated amount totals £226,237 per annum, based on Bands B, C and D rates.

	No's of properties	Council Tax Calculation per property	Affordable Housing Premium (£350 p/property)	Total NHB for 1 year	Total NHB for 6 years
<b>Open Market Sale</b>	97	£128,835.40 (@ Band D: £1,328.20p/p)	£0	£128,835.40	£773,012.40
<b>Affordable Housing</b>	44	£45,454.20 (@ Band B: £1,033.05p/p)	£15,400	£60,854.20	£365,125.20
<b>Affordable Housing</b>	44	£51,947.72 (@ Band C: £1,180.63 p/p)	£15,400	£67,347.72	£404,086.32
<b>Total</b>	185	£226,237.32	£30,800	£257,037.32	<b>£1,542,223.92</b>

## 8. Legal Implications

- 8.1 The tender was procured via the HCA's DPP2 Framework.
- 8.2 The draft development agreement was produced and shared with bidders during the mini-competition process. There is now a requirement for further

amendments to tailor the document to our requirements and works to negotiate and finalise the Development Agreement.

- 8.3 The externally appointed Legal Practice, Squire Patton Boggs will continue to provide support and advice during the post tender development agreement negotiations with the preferred development partner. Squire Patton Boggs were appointed following a request for tender exercise, providing the winning bid at a fixed cost of £13,843. Squire Patton Boggs have extensive experience of development agreements, build leases and other forms of contract and they will advise the Council on the best course of action.
- 8.4 The development agreement between the Council and the contractor will be re-drafted and engrossed. As the projected contract sum is greater than £100,000, the contract will be made under seal. This will provide 12 years' protection in dealing with any latent defects.

## **9. Human Resources Implications**

- 9.1 Tenderer A is committed to improving local communities and will work with local organisations and champions to help local people to find employment.
- 9.2 Tenderer A has provided a table to illustrate the Employment and Skills Outputs for the Site Cluster programme – this has been developed with their Regional Community Investment Advisor and the Group Apprenticeship Manager to ensure the outputs are realistic, deliverable and based on previous similar projects. *Appendix 8 exempt item – Employment and skills outputs and local supply chain strategy.*

## **10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 Three specialist housing units are proposed on the sites - further detailed design and engagement is required with the Council to determine the precise detailed brief and the internal specification of fixtures and fittings. The flexibility offered through the partnership will allow the Council to propose and agree amendments to the units to ensure that the specialist housing needs are addressed. The Interim Director of Children and Young Peoples Services has been working with the Strategic Housing Investment team to identify the requirements for 16-18 year olds leaving care and have confirmed their intention to rent the properties on completion.

## **11 Equalities and Human Rights Implications**

- 11.1 None identified

## **12. Implications for Partners and Other Directorates**

- 12.1 Specialist housing provision – impact for Children and Young People's Services
- 12.2 Social Value – wherever possible the impact on Economic Regeneration

## **13. Risks and Mitigation**

### **Economic downturn/Brexit impact**

- 13.1 An assumption in the preferred tender submission for the Open Market Sale units on Site 1 – Braithwell Road, Maltby to be sold at a rate of four per month, presents a challenge and is considered to be a risk for the Council. Discussions with Tenderer A have shown that if the anticipated four sales per month are unachievable, this risk can be mitigated by slowing down or stopping the development to allow the economic conditions to improve.

The detailed build programme will become the delivery timetable for the project and reports against progress will be analysed at the monthly site meetings. This will ensure that the build programme remains flexible to enable it to be responsive to market conditions and changes.

The table in Section 4.4 illustrates that if sale rates were to fall by one property per month this would have little or no impact for RMBC. However, if the sales value were to fall by 10% this would reduce the overall land returns by £1m. To mitigate this, the phased development approach allows the developer agent to offer the properties at an attractive purchase price with the potential of a rise in values on release of each phase.

Tenderer A has carried out extensive Local Market Analysis and considered sample properties for sale in Maltby that have sold within a 1-mile radius of the Braithwell Road site during the last six months. During the period between July-December 2015 there has been an overall net value increase of 4%.

The proposed robust Sales and Marketing strategy will ensure a lead-in time before the launch to create an awareness of the development scheme, generate interest/enquiries (building up a database) leading to early sales with phased releases to increase and maximise revenues at every opportunity.

- 13.2 Brexit – Tenderer A have been asked the question as to whether Brexit will impact on their bid. They have indicated that at this stage it is too early to identify any tangible impact. They are working closely with their supply chain to mitigate any cost impacts that may arise from the weakening in the value of the pound. The impact on the housing market and sales value will continue to be monitored. In the event of a Bank of England base rate reduction, this will have a positive impact on the Project through reduced interest costs.

### **Dual Phased Decision making process**

- 13.3 In dividing the decision making process into two stages: pre-development stage and construction stage, RMBC is managing and reducing any risks to the Council.

By funding the preliminary detailed works, this will help to de-risk the construction stage and the detailed information will provide further reassurance and security to the Council.

After the planning application has been approved a further report will be presented to inform members of the HRA funding requirements.

- 13.4 Pre-development Stage costs - RMBC will underwrite all pre-development costs, this de-risks the initial pre-development stage, which is essential for us to proceed within the desired timescales. If there is a breakdown in negotiations between RMBC and Tenderer A and RMBC does not authorise the Development/Construction stage, then RMBC will retain all rights and permissions to the completed survey and investigation works, the planning approval and the appraisal works. The sites could then be sold with planning approval and with the detailed site surveys.
- 13.5 The Development Agreement includes a suggested three phased plan – this divides the higher residual value site, Braithwell Road, Maltby, into three phases and combines each of these phases with other sites from the cluster. This ensures that all sites are developed and the developer partner is unable to be selective in their development of the sites.
- 13.6 The Development Appraisal Model proposed reduces the risk of land banking and shows their intention to build out across all seven sites, including the more challenging ones.

#### **14. Accountable Officer(s)**

- 14.1 Tom Bell - Assistant Director, Housing, Asset Management and Neighbourhoods.

Approvals obtained from:

- Strategic Director of Finance and Customer Services:- Judith Badger
- Head of Procurement :- Colin Earl (Assistant Director)
- Head of Legal Services:- Dermot Pearson (Assistant Director)
- Strategic Director of Adult Care and Housing: Graeme Betts (Interim)

#### **Exempt from the Press and Public**

An exemption under paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A of the Local Government Act 1972 is requested, for all the appended documents to his report as they contain sensitive commercial information with regards to the Council's contracts.

**It is considered that the public interest in maintaining the exemption would outweigh the public interest in disclosing the information, as the Council's and contractor's commercial interests could be prejudiced by disclosure of commercial information**