

## Summary Sheet

### Committee Name and Date of Committee Meeting

Cabinet – 4 February 2019

### Report Title

Whinney Hill and Chesterhill Avenue – Sites Disposal

### 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 of Adult Care, Housing and Public Health

### Report Author(s)

Kalpana Desai, Housing Development Co-ordinator  
01709 255049 or kalpana.desai@rotherham.gov.uk

### Ward(s) Affected

Valley

## Summary

Chesterhill Avenue and Whinney Hill are brownfield sites owned by the Council, located close to each other and capable of delivering around 240 homes altogether. Following a procurement exercise through Homes England's Developer Partner Panel, Cabinet approved a recommendation to select Keepmoat as the preferred partner (Dalton Cluster Invitation to Tender, 20<sup>th</sup> February 2013). The report included the release of Whinney Hill, reserving the Council's right to retain Chesterhill Avenue until physical start on site was achieved on Whinney Hill.

The development agreement with Keepmoat commenced in May 2014, and stated a longstop date of 36 months from the agreement date. The longstop date was not achieved and the agreement expired in 2017.

It is essential that a start on site is achieved as soon as possible due to historic delays. Delivery of these sites will make a significant contribution to housing growth targets. A number of options have been considered in bringing these sites to delivery, including the Council building out the sites and / or another joint venture arrangement, and it is recommended that the most straightforward route to delivery will be putting the sites out to the market, separately, for disposal.

## **Recommendations**

1. That disposal on the open market of the Council-owned sites Whinney Hill and Chesterhill Avenue be approved.
2. That the consideration and acceptance of the offer presenting the best consideration be undertaken by the Assistant Director of Housing and the Acting Assistant Director of Planning, Regeneration and Transport, in consultation with the Strategic Director for Finance and Customer Services and the Cabinet Member for Housing.
3. That the Assistant Director of Legal Services be authorised to prepare and execute all necessary contractual documentation.

## **List of Appendices Included**

Appendix 1 Location plan and site plans

## **Background Papers**

20<sup>th</sup> February 2013 - Dalton Cluster Invitation to Tender Cabinet Report (approval to appoint Keepmoat as the preferred developer Partner for the Dalton Clusters)

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

No

## **Council Approval Required**

No

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

No

## **Whinney Hill and Chesterhill Avenue – Sites Disposal**

### **1. Background**

- 1.1 The Council undertook a procurement process in 2013 to identify a developer partner to build homes on Whinney Hill and Chesterhill Avenue. Keepmoat was the successful applicant, and a development agreement was signed by both parties in 2014. This required a start on site on Whinney Hill before Chesterhill Avenue would be released. A start on site was not achieved within the agreed period and the legal agreement ended in 2017.
- 1.2 The most straightforward route to delivery of these sites is considered to be selling them on the open market, with conditions built in to the sale agreement to ensure an early start on site. It is likely that any purchaser will require their purchase to be conditional upon the grant of planning permission. Chesterhill Avenue will be marketed separately from Whinney Hill. The Asset Management Service will market the sites for eight weeks and offers received will be reviewed by the Assistant Director of Housing and the Acting Assistant Director of Planning, Regeneration and Transport, in liaison with the Section 151 officer and Cabinet Member for Housing, who will jointly determine which offer presents best consideration and accept accordingly, subject to Cabinet approval of this report.

### **2. Key Issues**

- 2.1 These sites can together deliver approximately 240 homes which would make a significant contribution to Rotherham's housing growth target. It is essential that work starts as soon as possible as local communities are understandably frustrated at the lack of visible progress over the past five years, and the antisocial behaviour that has been attracted by these large, vacant sites.
- 2.2 The development of the sites will help to regenerate the area, providing a range of tenures to meet various housing needs and high quality new homes.

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

- 3.1 Option 1 – the Council could develop the sites using HRA funding. The HRA is currently delivering over £60m of investment into housing growth projects and without borrowing, would not be able to fund a programme of this scale, at least within the next five years. Due to the urgency of securing a start on site, this option is not recommended.
- 3.2 Option 2 – procure a developer partner through a procurement procedure compliant with the Public Contract Regulations 2015. This option is not recommended due to the lengthy process involved and potential further significant delays with starting on site.
- 3.3 Option 3 – sell the sites by Informal Tender – which allows increased flexibility over the terms of the offer and can include the opportunity to share uplifts in the development value through overage and clawback mechanisms. This is considered to be the most expedient route to delivery and is therefore the recommended approach.

#### **4. Consultation**

- 4.1 A meeting was held with Ward Members on 17<sup>th</sup> July 2018, informing them of the position with Keepmoat, and the different routes to disposal. Subject to Cabinet approval of this report, an open meeting will be arranged to inform local residents of the marketing underway and answer any questions.
- 4.2 Strategic Housing have been consulted on the housing needs for the area, this will be incorporated into the assessment criteria.
- 4.3 Details of the sites were presented at the Council's Housing Developer Summit in November 2018 and this generated significant levels of interest amongst private developers and housing associations.

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

- 5.1 Advertising will commence immediately upon Cabinet approval.
- 5.2 The Asset Management Team will be responsible for managing the disposal process.
- 5.3 The Assistant Director for Housing will be accountable for implementing this decision and determining which offer represents the best deal for Rotherham, in conjunction with the Acting Assistant Director of Planning, Regeneration and Transport, the Council's Section 151 officer and Cabinet Member for Housing.
- 5.4 Progress on disposal will be reported to and overseen by the Housing and Regeneration Programme Delivery Board.

#### **6. Financial and Procurement Implications**

- 6.1 If it is proposed to dispose of any site at less than the best consideration that can be reasonably obtained the Property Officer shall prepare a report to Cabinet, requesting approval to proceed with the disposal in accordance with the relevant legislation (Local Government Act 1972 General Disposal Consent (England) 2003).
- 6.2 The development of 240 homes on these sites will generate New Homes Bonus and council tax income to the General Fund.
- 6.3 As the recommendation is to dispose of the site, there are no direct procurement implications.
- 6.4 While the Whinney Hill site is held in the HRA, part of the Chesterhill Avenue site is owned by the General Fund. Therefore any receipts will be apportioned between the HRA and General Fund in accordance with the land percentage split.

## **7. Legal Implications**

- 7.1 When selling any property by informal tender it is not possible to contractually oblige any buyer to carry out development of specific outcomes (i.e. development of a specific number of houses). In order to do this it would be necessary to follow Option 3 in paragraph 4.3 above and comply with procurement regulations. However, the risk that a developer will purchase land for residential development and obtain planning permission with the costs involved with that, and then not develop, is low. Officers will also seek to impose contractual milestones for start on site and practical completion to further minimise the possibility of delay.

## **8. Human Resources Implications**

- 8.1 None identified

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

- 9.1 The sales brief will indicate the need for high quality homes for families and older people on these sites.

## **10. Equalities and Human Rights Implications**

- 10.1 None identified

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

- 11.1 While the sites remain vacant they attract fly-tipping and other neighbourhood problems, and once development commences there will be associated budget savings for the Council.

## **12. Risks and Mitigation**

- 12.1 If the sites remain vacant, the Council will continue to incur costs associated with maintaining them and the community will lose confidence in the Council's ability to deliver housing growth on key sites in its ownership. This will be mitigated by selling the sites without further delay.
- 12.2 The risk of developers not being interested in the sites is low as a number of organisations have informally approached the Council. The Asset Management Team will proactively market the sites through a range of media channels.
- 12.3 Contracts will contain a buy-back clause and be conditional upon planning permission, to mitigate the risk of developers 'land-banking' the sites.
- 12.4 The Government have indicated that they are minded to revise the New Homes Bonus Scheme in future years. Therefore, there is a risk that grant income from the Scheme may not achieve the levels of income to the Council seen in recent years.

12.5 The risk of the sites being purchased for the development of accommodation that would fail to meet strategic housing need or high quality design standards will be mitigated by a robust Planning pre-application process.

**13. Accountable Officer(s)**

Tom Bell – Assistant Director of Housing

Approvals obtained on behalf of:-

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	07/01/19
Strategic Director of Finance & Customer Services (S.151 Officer)	Paul Stone	06/12/18
Assistant Director of Legal Services (Monitoring Officer)	Stuart Fletcher	21/12/18
Assistant Director of Human Resources (if appropriate)	N/A	N/A
Head of Procurement (if appropriate)	Karen Middlebrook	06/12/18

*Report Author: Kalpana Desai, Housing Development Co-ordinator  
01709 255049 or [kalpana.desai@rotherham.gov.uk](mailto:kalpana.desai@rotherham.gov.uk)*