

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE
CABINET

Date 21 March 2018

1. **REPORT TITLE** **Town and Country Planning Act 1990 - Section 106
Procurement of Affordable Housing**
- Submitted by:** **Executive Director (Regeneration and Development)**
- Portfolio:** **Planning and Regeneration**
- Ward(s) affected:** **All**

Purpose of the Report

To seek approval to procure the provision of affordable housing accommodation within the Borough using funds from developer contributions obtained as a result of planning obligations.

Recommendations

- (i) **That Cabinet authorises officers to undertake a tender process to evidence best value in the provision of contributions to a registered provider for the provision of affordable housing.**
- (ii) **That Cabinet delegates authority to the Executive Director (Regeneration and Development) to award a contract, in consultation with the Portfolio Holder for Planning and Regeneration, following the completion of the procurement process which is within the budget provision.**

Reasons

The Council has received funds to be used to provide affordable housing and is procuring a suitable provider to achieve this.

1. **Background**

- 1.1 In 2009 the Council adopted an Affordable Housing Supplementary Planning Document (SPD) which in accordance with Government guidance states that “the Council will seek to ensure that affordable housing is provided on-site in the first instance. Only in very particular, agreed circumstances will another site or payment in lieu of on-site provision be considered as an acceptable alternative.” The SPD refers to such payments being held by the Council in a ring-fenced Affordable Housing Fund (this is to ensure compliance with the law in respect of Planning Obligations).
- 1.2 To date, the Council has received £219,715 in affordable housing contributions and it is now seeking to expend these monies with a registered provider who is able to offer the Council the best return for these contributions. Included within the relevant obligations will be clauses limiting the purpose to which the money can be spent and in the case of obligation contained within agreements, as opposed to Unilateral Undertakings, setting a date by which, if the money is not spent, it is to be returned to the party who paid the original contribution.

2. **Issues**

- 2.1 Although, the SPD contains broad principles about affordable housing off-site contributions it does not define a mechanism as to how such monies should be spent. Officers have considered the various options open to the Council and which would be the most appropriate process to ensure openness, transparency and best value.

3. **Options Considered**

a) **Do nothing**

There are legal terms contained within the Section 106 Agreement, requiring the Council to spend the funds for the purposes of affordable housing within the Borough; should this not occur it would lead to reputational damage, and potentially the repayment of the money, with interest.

b) **Direct Award of Monies**

To make a direct award of these monies to a known Registered Provider without a call for competition. The obvious concern with this approach is that officers would find it difficult to justify best value having not undertaken any market evaluation.

c) **To evidence Best Value by awarding the funding to a Registered Provider via a competitive tendering process to build /acquire affordable housing.**

Officers will obtain market intelligence by completing a tender process with Registered Providers of social housing who build, own, acquire and manage affordable housing. Officers believe it would be appropriate, therefore, to invite bids/proposals from Registered Providers, which can be evaluated against set criteria with the winning submission awarded the funding to develop or acquire affordable housing.

4. **Proposal and Reasons for Preferred Solution**

- 4.1 The proposal is to seek Cabinet approval to award the funding to a Registered Provider via a competitive tendering process (option c) which will support and evidence best value. A tender pack has been drafted with the support of the Council's corporate procurement section and this is available as a background document.
- 4.2 The evaluation of the proposals will be undertaken by officers from Housing Strategy, Planning Policy and Development Management.
- 4.3 At Planning Committee in December 2016, it was resolved that Officers upon receipt of such sums would consult with the appropriate Parish Council or Parish Councils, on whether or not there are opportunities to expend such sums within the areas of those Councils. At the same time the Committee resolved that such sums should not have to be spent in areas where they have been generated from.
- 4.4 As £45,000 of the £219,715 has originated from approval granted in Wrinehill, consultation has taken place with the Parish Council and consideration had been given to expending this sum within the area. However it was agreed that the preferred proposal would be to make available the affordable housing contribution as a single fund and to competitively procure the development of affordable housing via a Registered Provider.

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 5.1 The provision of affordable housing within the Borough will contribute to the corporate priorities of a Borough of opportunity and a healthy and active community.

6 **Legal and Statutory Implications**

- 6.1 There are legal terms contained within the Section 106 Agreement – requiring the Council to spend these monies for the purposes of affordable housing within the Borough.
- 6.2 The decisions taken offers a route to demonstrate best value in expending affordable housing contributions and utilises the Councils internal governance rules as set out in its Constitution.

7 **Equality Impact Assessment**

- 7.1 There are no adverse equality impact issues identified from this proposal. It is envisaged that the development of affordable housing will have a positive impact.

8 **Financial and Resource Implications**

- 8.1 To date, the Council has received £219,715 as Section 106 contributions so as to facilitate the development of affordable housing within the Borough and this fund resides in a ring-fenced account. The funding will be obtained from this account. In addition there will be a modest requirement for existing officer resources to manage this tendering process.
- 8.2 The Council's specification of requirements as part of the tendering process places restrictions on the release of these monies to the successful service provider.

9. **Major Risks**

- 9.1 The offsite contributions have been paid for the specified objective of facilitating the development of affordable housing, it would lead to reputational damage should these monies not be spent.
- 9.2 Officers will be required where possible to evidence sustainability of the development through to completion as part of expending of such monies.

10. **Key Decision Information**

- 10.1 This is a key decision as the contract value is in excess of £50,000 and it has therefore been included in the Forward Plan.

11. **Background Papers**

- 11.1 A tender pack has been drafted with the support of the council's corporate procurement section. This is available on request from the Housing Strategy Team.