

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Housing, Environmental and Economic Development

Housing, Environment and Economic Development Committee:
11 January 2012

Subject: New Council House Building

1. Purpose

1.1 This report informs the Committee on progress made towards building 75 new Council homes following the recent successful application made to the Scottish Government's Innovation and Investment Fund. The report advises on the need for an innovative approach to the procurement of newbuild council housing and seeks approval for the adoption of the procurement options detailed in Section 3 of this report.

2. Background

2.1 In May 2011 the Council submitted a bid to the Scottish Government's Innovation and Investment Fund. This £50 million Fund is the new competitive funding arrangement for providing affordable housing in Scotland. It was divided into 3 pots of funding - £20m for Council's; £20m for RSLs; and £10m for Innovation.

2.2 Following announcements by the Scottish Government in September 2011, the Council were successful in being awarded £2,250,000 grant funding to assist with the development of 75 new Council homes across the three sub areas of the Authority. Each of the developments is taking place within one of the Councils priority regeneration areas.

3. Main Issues

3.1 As outlined in the previous Housing, Environment and Economic Development report of 2 November 2011, a corporate approach to achieving the new build has been adopted. Various Officers from across Council departments have been involved in weekly meetings to discuss and progress the following:

- Planning Consents and other related consents
- House sizes and house types
- Legal and Procurement regulations
- Project Briefs
- Tendering Processes

- 3.2** Since the report noted above, there has been considerable development on all three projects, however given the exceedingly tight timescales (requiring site starts by the end of April 2012) it has been necessary to consider innovative procurement options. The following paragraphs explain these on a site by site basis, and seek Committee's approval for the options narrated.

Miller Road, Haldane (15 Units)

- 3.3** The proposal at the Miller Road Haldane site is to utilise the spare capacity under a contract let by Cube Housing Association (Cube) to Cruden Homes for the redevelopment of a number of properties around and including the Miller Road site. The Miller Road site itself had previously been identified as a site for transfer to Cube to allow redevelopment of the area in question. With changes in the rules and allocation for Housing Association Grant, and the advent of the Housing Innovation and Investment Fund it makes sense for this project to be taken forward by the Council.
- 3.4** The acute timescales mentioned above, together with the fact that the Council's Housing should compliment the existing new development in the area has led to the conclusion that there is a great deal to be gained by employing the existing contractor. In addition it is anticipated that by adopting the existing contract, there will be considerable savings from site start-up costs, design savings, given a knowledge of the area and infrastructure issues and importantly, whilst the timescale for completion of the existing phase and site start on the new Miller road site may not entirely match, there are opportunities for continuity of employment for those working on the sites, many of whom will be local to West Dunbartonshire.
- 3.5** The existing procurement was undertaken by Cube and in order to stay compliant with the European Procurement Rules under which they initially tendered, it will be necessary for the Council to buy the houses from Cube rather than employ the contractors directly. By necessity therefore we will require to buy development and project management services from Cube to cover their time on the job. These will be benchmarked against industry standards to ensure Best Value for the Council, and as noted below, there are opportunities to obtain comparative benchmarks between the individual projects. Construction will be by Cruden Homes who in turn employ MAST architects under the Design and Build contract.
- 3.6** The tight programme has meant that the Council has had to give advance authority to Cube to instruct works to allow a planning application to be submitted by the deadline date for the February Planning Committee. The external costs are at this stage limited to that required to submit the application. The Council will directly bear the costs of the planning fees.

- 3.7** Due of the nature of the project, and the fact that we are buying into an existing contract, full costs of the works will not be available until the full construction package has been costed and bid (as a single tender). Nevertheless, it will be necessary to agree to the procurement route at this stage, and ,given the timescales , it is strongly recommended that advance approval to the award of the Construction and Project Management contracts is given, provided always the Director of Housing, Environmental and Economic Development is satisfied that Best Value can be proven and that the project is deliverable affordably and within time and other conditions required as part of the Grant Funding by Scottish Government. If the alternative view is taken that the details would require to be brought back to Committee for approval in advance of award, there is a strong likelihood that the project would be delayed with the potential loss of the grant funding.

Granville Street, Clydebank (24 Units)

- 3.8** This site is at first glance the most problematic to reach a stage where we could be assured of the Council being in a position to meet the timescale set down by the Scottish Government. Approval from Scottish Government came some two months later than had been indicated as likely at the time of the grant submissions and against this background, the Council's plan to utilise a traditional domestic level (i.e. sub-European) tender route became problematic, and to all accounts unfeasible.
- 3.9** The Council had recently entered an access agreement with a Consortium of Local Authorities known as SCAPE on a no commitment basis. This consortium, made up of a number of English Midlands Local Authorities, have been trading for in excess of 10 years and operate by placing a European Level Framework agreement for works falling within a number of categories within the UK. The effect is to produce a framework similar to Government and /or Scotland Excel frameworks which allow Local Authorities and other named public bodies to access the framework and contract for works without tendering at a European level for each project.
- 3.10** In addition to being a fast route to market, the overheads are kept low and local competition still takes place because works packages have to be tendered within the framework on an open book basis. The consortium has a considerable track record in England and Wales and some recent projects in Scotland. The company who won the contract is Willmot Dixon who in turn partner exclusively in Scotland with Robertsons (i.e. it is Robertsons who deliver the projects within Scotland), who have a considerable track record in all construction sectors in Scotland. Their role under the contract is not to actually provide the construction services (although they may do so if they and their tender meets the best value criteria set by the Council) but to co-ordinate and design and thereafter manage the contractor under the NEC form of contract which is recommended by the Government for use in public projects.

3.11 Legal Services have examined the processes in detail and are satisfied that, provided each project remains within the scope of the terms of the initial framework scope, the use of this framework would be compliant for European Procurement purposes.

3.12 The Executive Director of Housing, Environmental and Economic Development has authorised the use of the framework up to and including the submission of planning permission to the February 2012 Planning Committee (again with a deadline of 9 December 2011) with total costs (excluding planning fees met by the Council directly) being within delegated authority levels of up to £50,000.

3.13 There are a number of features for this particular project to be noted:-

- As with all the sites, timescale is critical. An appointment (or series of appointments as would be the case under a traditional model) would not have allowed the project to be on site by the end of April given the delay in the approvals;
- In the first stages of feasibility, Robertsons have been working at risk and without fee. The only costs incurred by the Council have been those for external appointments (architects, engineers etc) who are required to develop designs. We have now moved to the second stage where a fee is due, however due to the nature of the appointment, these can be stopped at whatever stage the Council feels it necessary, so no large breakage fees are occurred (i.e. we pay for what we get);
- The Council is, unlike in European Level procurements able to have far more influence on the pool from which the contractors and consultants will be selected, although to ensure Best Value and that the deadlines are met, this has not been heavily utilised to date;
- The SCAPE framework requires Robertsons to meet a number of Key Performance Indicators, included in which, is the requirement to meet standards in relation to sourcing goods, services and labour from the local vicinity. This type of target is notoriously difficult to enforce through a single construction contract as its terms will generally not be seen as enforceable by the judiciary through a construction contract, but is enforceable through the terms of the framework contract which SCAPE has with Willmot Dixon/Robertsons;
- The value which can be captured through tenders capturing local market conditions can still be captured through the tendered sub-contracts (including the main construction contract) whilst avoiding the overheads of a Council run tender process and the inherent delays and costs they may bring to this project which has very tight timescales and a need for cost certainty;

- The project can be halted at key stages should affordability change, right up until the point of signing the construction contract, at which point, in terms of this form of contract, costs are far more certain than many other contract forms in use.

Valeview, Bellsmyre, Dumbarton (36 Units)

- 3.14** The procurement issues regarding Valeview are similar to those in respect of Granville Street save for three key matters. Firstly, the number of units and the estimated unit price are such that the construction contract is likely to exceed the European Procurement threshold on its own. Secondly, there are detailed designs, planning permission and roads construction consent relating to Bellsmyre Housing Association's proposed development of the site some years ago. Thirdly, there are ongoing discussions with the Housing Association as to the value of the land which would require to be transferred to the Council and the value to be transferred in respect of the intellectual property in the designs.
- 3.15** These discussions will continue to be pursued, however in anticipation that they are resolved in a timescale and manner which allows the Council to proceed with the proposed development within its affordability and delivery limits, it is anticipated that the SCAPE framework would again be used, in a similar manner as with Granville Street.
- 3.16** To date, whilst Robertsons have had an initial examination of the assumptions, there has been no instruction to proceed with any design work, and that will stay as the position until such time as officers are satisfied that acquisition costs can be accommodated within the financial affordability framework the Council and Scottish Government are working to.
- 3.17** However, assuming agreement in principle can be reached, and notwithstanding the existence of required permissions, it will still be necessary to advance the project at pace to meet the Scottish Government timescales.

SCAPE Projects - Approval

- 3.18** As with the Miller Road project, full construction costs will not be available until a later date. Nevertheless, it will be necessary to agree to the procurement route at this stage, and given the timescales, it is strongly recommended that advance approval to the award of the Construction contract is given, provided always the Executive Director of Housing, Environmental and Economic Development is satisfied that Best Value can be proven and that the project is deliverable affordably and within time and other conditions required as part of the Grant Funding by Scottish Government. If the alternative view is taken that the details would require to be brought back to Committee for approval in advance of award, there is a strong likelihood that the project would be delayed with the potential loss of the grant sums.

Social and Economic Benefits

- 3.19** It should be noted both methods of procurement offer potential benefits from an employability perspective in that in one case they offer the opportunity for continuity of employment and in the other, the possibility of targeted local spend and a programme that could sustain long term construction opportunities. The SCAPE consortium is being considered as one of the possible routes for one of the securitisation projects and this could bring the very real prospect of achieving employability gains over the lifetime of the projects although the construction contractor may be different in each project.

4. People Implications

- 4.1** There are no direct implications for staff of the authority as such construction would not be within the scope of activities undertaken by Council employees.
- 4.2** Resources from a number of service areas across the Council will continue to be required as the process is developed.

5. Financial Implications

- 5.1** The above proposals would all require to be delivered within parameters of affordability previously noted and agreed by Housing, Environment and Economic Development Committee.
- 5.2** Approved expenditure to date, on each individual project has been within Directors delegated authority and can be met from approved budgets.

6. Risk Analysis

- 6.1** The most considerable risk is that of delay resulting in the failure to meet the Scottish Government deadlines for commencement of works, at which point the offer of grant would likely to be withdrawn. As this could add the £30,000.00 per unit to the Council's costs, the projects would be unaffordable according to the current affordability criteria. The proposals above are designed to mitigate this risk and secure the much needed investment in affordable homes across West Dunbartonshire.
- 6.2** Each project has its own project risk register which highlights risk within and outwith the project team's control. These are maintained and adjusted on an ongoing basis.
- 6.3** The Manager of Legal Services/Head of Legal, Democratic and Regulatory Services is satisfied that the risk on procurement grounds has been sufficiently mitigated to proceed as proposed in Section 3.

7. Equalities Impact Assessment (EIA)

- 7.1** The proposal does not alter any existing policy or pattern of service delivery and so is not considered to require an equalities impact assessment.

7.2 All new build Council housing will be compliant with Housing for Varying Needs.

8. Strategic Assessment

8.1 The Council has identified four main strategic priorities for 2011/2012, namely Social & Economic Regeneration, Financial Strategy, Asset Management Strategy; and Fit for Purpose Services.

8.2 The LHS is the overarching document setting out the strategic direction for housing across all tenures and informs the future investment in housing and related services across West Dunbartonshire.

8.3 The supply of new build council houses in priority regeneration areas will contribute greatly to all four of the Council's main strategic priorities for the communities of West Dunbartonshire.

9. Conclusions and Recommendations

9.1 As indicated above, the timescales for the appointment of a contractor and commencing the works on site necessary to attract the grants for the above three new build housing projects are exceedingly tight.

9.2 The project teams involved have made significant progress in moving the projects on within the scope of delegated authorities and a decision is now required on the procurement routes which will best meet the needs of each project.

9.3 Having considered the options available in the timescales available, it is recommended that the Committee:-

- i) agree to appoint Cube as Developer/Project Manager for the Miller Road, Haldane development of 15 new build council houses with Crudens and Mast providing the construction and design services under a design and build contract with Cube;
- ii) agree to appoint Willmott Dixon/Robertsons as design and build contractor utilising the SCAPE framework for the construction of 24 new build council houses at Granville Street, Clydebank;
- iii) agree to the appointment of Willmott Dixon/Robertsons as design and build contractor utilising the SCAPE framework for the construction of 36 new build council houses at Valeview, Bellsmyre Dumbarton subject to agreement on the acquisition of the land and the intellectual property in the existing design and development documentation; and
- iv) note that the project costs will be reported to Housing, Environment and Economic Development Committee as part of a regular project monitoring exercise as the projects progress

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Appendices: None

Background Papers: Housing, Environment and Economic Development Committee Report 26 May 2011 - Bid Submission to the Innovation and Investment fund for New Council House Building

Housing, Environment and Economic Development Committee Report 2 November 2011 - Bid Submission to the Innovation and Investment Fund for New Council House Building

Wards Affected: 1, 2 and 5