

Gloucester City Council

Meeting:	Cabinet	Date:	11 March 2020
Subject:	Joint Core Strategy Affordable Housing Partnership and Selection of Preferred Providers		
Report Of:	Cabinet Member for Planning and Housing Strategy		
Wards Affected:	All Wards		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	None		

FOR GENERAL RELEASE

1.0 Purpose of Report

1.1 The purpose of this report is to brief Members and seek approval for the continuation of the Joint Core Strategy Affordable Housing Partnership and to allow for a review of the current list of Preferred Registered Providers delivering homes in the strategic allocations sites of the Joint Core Strategy area.

2.0 Recommendations

2.1 Cabinet is asked to **RESOLVE** that:

- (1) The existing Affordable Housing Partnership with Cheltenham Borough Council and Tewkesbury Borough Council set up to oversee the delivery of affordable homes across the Strategic Allocation Sites within the Joint Core Strategy area over the JCS Plan Period be continued.
- (2) the City Council review the existing list of Preferred Providers of Affordable Housing, inviting current Preferred Providers and other Registered Providers to bid to become a Preferred Provider for a period of up to 5 years from November 2020 across the Strategic Allocation Sites within the Joint Core Strategy Area jointly with Cheltenham Borough Council and Tewkesbury Borough Council
- (3) future arrangements to review the list of Preferred Providers be delegated to the Head of Place in consultation with the cabinet member for Planning and Housing Strategy.
- (4) Authority be delegated to the Head of Place in consultation with the cabinet member for Planning and Housing Strategy to:
 - (a) evaluate and select Preferred Providers for the delivery and/or management of new affordable housing on the Strategic Allocation Sites noting that the selection will be carried out jointly with Cheltenham Borough Council and Tewkesbury Borough Councils
 - (b) agree changes to the Terms of Reference of the partnership and the Memorandum of Understanding between the Councils and the Preferred Providers to take effect from November 2020 and to make any other changes to necessary and

- (c) make further operational decisions in relation to the Affordable Housing Partnership including whether or not to allow or invite other Registered Providers (RPs) to become a Preferred Provider during the 5 year period referred to in recommendation 2.1(2)

Background and Key Issues

- 3.1 The Joint Core Strategy (the JCS) was adopted in December 2017 and the current review plans to deliver 35,175 new homes across the JCS areas of Gloucester, Cheltenham and Tewkesbury over the plan period to 2031.
- 3.2 This plan includes provision to support the otherwise unmet housing needs of Cheltenham and Gloucester. Specifically, the plan includes a number of Strategic Allocations (as detailed in Part 3 of the Joint Core Strategy) which will contribute towards meeting the housing needs (including the Affordable Housing needs) of the two urban authorities.
- 3.3 In June 2015, Cabinet agreed to set up an Affordable Housing Partnership, made up of the three Local Housing Authorities across the JCS area, to oversee the delivery, allocation and management of Affordable Housing delivered within the Strategic Allocation sites. The formation of such a partnership was supported by the Joint Core Strategy at paragraph 4.12.16 (pg. of the Adopted Policy).
- 3.4 The aim of the Affordable Housing Partnership was to:
 1. oversee the delivery of new Affordable homes and
 2. to agree cross-boundary lettings arrangements.
- 3.5 The Affordable Housing Partnership's outcomes were identified as follows:
 1. To maximise the delivery of new Affordable Housing and to ensure the unmet Affordable Housing needs of Cheltenham and Gloucester are supported by the Strategic Allocations.
 2. To create a framework that enables new communities to become and remain cohesive and sustainable.
- 3.6 To date the partnership has developed a model S106 agreement to be used on Strategic Allocations that will ensure a consistent approach to the Affordable Housing, with general letting arrangements for Strategic Allocations in Tewkesbury Borough agreed following consultation with the partner authorities.
- 3.7 The JCS Authorities have worked with Local Housing Authorities to provide an upgrade to the Homeseeker software to ensure the system supports the agreed lettings arrangements. The partnership is also close to finalising a model Local Lettings Plan for Strategic allocations with Preferred Providers to ensure we support mixed and balanced communities as the sites and homes are built out. In addition, the partnership has been working in the past year on the review of preferred providers and the development of a Joint Core Strategy Affordable Housing Supplementary Planning Document.
- 3.5 The partnership is currently supported by the housing consultancy Ark Consultancy Ltd. which is financed from Capacity Funding provided by Homes England. This arrangement is managed by Cheltenham Borough Council, who hold the funding on behalf of the districts. It is anticipated that the funding will be sufficient to cover the next 5 years of the preferred provider arrangements.

4.0 Alternative Options Considered

4.1 Leave it to the open market to decide

This option was considered in 2015 and discounted. It remains an option now. This alternative option is to allow RPs, regardless of their track record in housing management and community involvement to make bids to developers on the Strategic Allocations independently of each other or within consortia of their own making. By allowing this the Local Authority would have no influence in determining which RPs are successful in their bids to developers. It is still the view that this is undesirable as it may result in RPs being selected by developers who are strong on the delivery of new Affordable Housing, but are potentially weak in terms of their housing management and community involvement capabilities and who may not be as closely aligned to the Local authority objectives as Preferred Providers, with the opportunity for strategic alignment and joint working between RPs who are successful with their bids to developers and their local housing authorities being lost. A number of sites have come forward via appeal and the legal agreements do not promote the use of Preferred Providers. Existing Preferred Providers Bromford and Sovereign are contracting on a substantial number of these homes.

4.2 Select one RP/Consortium for the whole JCS area

This approach may have some advantages in that by having a smaller number of RPs to work with it will be easier for the Partnership to agree on some or all of its priorities. This would however also bring greater risks in that developers are less likely to work with the RP/consortium if there is no other competition within the Partnership.

5.0 Reasons for Recommendations

5.1 The rationale for selecting a number of Preferred Providers to deliver and manage the homes and communities within the Strategic Allocations remains the same as it was in 2015. The JCS authorities wish to 'raise the bar' and prevent a 'free for all' from Registered Providers(RPs) of any standard competing for the delivery of affordable housing in these areas. Capacity to deliver new affordable housing competitively is important, of greater importance is the ability of RPs to invest in developing and sustaining strong and resilient communities both during and after development is complete.

5.2 RPs selected as having Preferred Provider status will have demonstrated to the Local Authorities' satisfaction that they can deliver and manage the Affordable Housing and their communities to an acceptable standard. This will in turn provide the Authorities with confidence that the Partnership's outcomes can be met.

5.3 As outlined in 3.1 the JCS details the requirement to plan for significant housing growth over the plan period to 2031. In order that a balanced housing market is achieved across the JCS area it follows that any future housing provision will also include an element of Affordable Housing and the JCS sets out a common Affordable Housing Policy, SD12 of the JCS this Affordable Housing policy states that:

“1. The JCS authorities will seek, through negotiation, for new development to deliver new affordable housing on a sliding scale approach as set out below:

i. Within the Strategic Allocation sites a minimum of 35% Affordable Housing will be sought.”

5.4 Given that some of Cheltenham and Gloucester's future Affordable Housing requirements will be provided on Strategic Allocations falling within Tewkesbury boundaries, it was deemed necessary that a Cheltenham, Tewkesbury and Gloucester Affordable Housing Partnership

was established to oversee the delivery, allocation and management of Affordable Housing on the proposed Strategic Allocations. Delivery on JCS Strategic Allocation sites has taken some time to come on stream with initial delivery occurring in 2020. This means the Councils are not in a position to judge performance of the existing preferred providers in the delivery of sustainable and cohesive communities in relation to the JCS Strategic Allocations.

- 5.5 The formation of this Affordable Housing Partnership is supported by the adopted Joint Core Strategy, this is set out within the supporting text of Policy SD12, paragraph 4.12.16.
- 5.6 The Affordable Housing Partnership (the Partnership). The aim of the Partnership is to bring about a collaborative approach to overseeing the delivery of new Affordable homes within the Strategic Allocations, and to monitor and review cross-boundary lettings arrangements. The Partnership outcomes are outlined in 3.3 above. The Partnership Agreement and Memorandum of Understanding are being reviewed in advance of the selection process.
- 5.7 Registered Providers (RPs) can play a key role in creating communities that are cohesive and sustainable, and it will be expected that RPs will take strength-based approach to their work focussing in particular on the following outcomes:
- supporting tenants into education, training and employment,
 - promoting financial and digital inclusion
 - reducing fuel poverty
 - reducing social isolation
 - promoting community engagement
 - tackling anti-social behaviour
 - increased recycling and appropriate waste management
- 5.8 The Partnership will continue to work to ensure that RPs wishing to deliver and/or manage new Affordable Housing on the Strategic Allocations can support these outcomes. A key mechanism by which these outcomes can be achieved will be through the proposed Preferred Provider arrangements.
- 5.9 Preferred Provider Arrangements, RPs with an interest in providing and/or managing new Affordable Housing within the Strategic Allocations will be invited to bid for Preferred Provider status, and will be selected according to the evaluation criteria that is being developed by officers. The evaluation criteria will be based on the previous evaluation exercise, officers aim is that the process encourages bids by providers at the same time ensure robust assessment. This includes but is not limited to evaluating:
- Their capacity to deliver new Affordable Housing across relevant sites
 - The strength of their housing management capabilities
 - Their ability to engage and involve local communities so that they can become and remain cohesive and sustainable
- 5.10 On completion of the review and evaluation, RPs selected as Preferred Providers for the Strategic Allocations will be invited to join the Affordable Housing Partnership and together with the Local Housing Authorities, they will work towards achieving the Partnership's outcomes, as detailed within Section 3.3 above.
- 5.11 Preferred Providers within the Partnership may then (if they wish) chose to enter into consortium arrangements with other members of the Partnership. RPs intending on entering into a consortium arrangement will be given the opportunity to clarify their intentions as part of the Preferred Provider Evaluation Process. It is therefore plausible that the Partnership will be made up of one or more consortia, as well as one or more other RPs working independently and in direct competition other providers within the Partnership.

- 5.12 Developers will be asked to work with any number of Preferred Providers within the Partnership. This will ensure that developers will still receive a competitive price for the Affordable Housing, and this in turn will increase the likelihood of developers agreeing to work with our Preferred Providers.
- 5.13 There is also a potential lost opportunity for strategic alignment and joint working between RPs who are successful with their bids to developers and their local housing authorities
- 5.14 Consultation and feedback: The formation of the Affordable Housing Partnership and the proposed selection of Preferred Providers was supported by the JCS Cross Boundary Programme Board, which is made up of Chief Executive Officers from the three Local Authorities.
- 5.15 Consultation was undertaken with developers and their agents prior to setting up the Preferred partner arrangements. A range of views were expressed from a feeling that the approach fettered developers discretion to contract with who they wished (a view not supported by the Consultants advising the Councils), to a view that a preferred provider approach can bring to the long term sustainability of an area and that this can support the saleability of their market housing in later phases. The current model S106 agreement provides an element of flexibility to meet both perspectives; the JCS authorities expecting developers/owners to use reasonable endeavours to contract with Preferred Providers.
- 5.16 The authorities have been approached by other RPs expressing an interest in becoming a preferred provider. The review will provide an opportunity for these organisations to become Preferred Providers should they meet the evaluation criteria.
- 5.17 Consultation has also been undertaken with the existing Preferred Providers and other Registered Providers currently owning or managing stock within in the JCS area. All those who fed back are broadly supportive of our approach. The Councils will seek their views on the evaluation criteria and process prior to finalising the approach and inviting expressions of interest.

6.0 Future Work and Conclusions

- 6.1 Performance management –monitoring and review: the Partnership has and will continue to meet on a regular basis to oversee the implementation of its outcomes. The Partnership has undertaken regular review of progress against its outcomes and priorities. It has been set out above the pieces of work the partnership has concluded or commenced over its lifetime.
- 6.2 Delays to delivery on the Strategic allocations, means that a full evaluation of the success of the arrangement has not been possible. It is anticipated that delivery will commence in 2020 and so a continuation of the arraignments for a further 5 years will undoubtedly provide the opportunity to evaluate the success of the arrangements.
- 6.3 It was agreed that Preferred Provider arrangements will be reviewed at least every 5 years or as agreed by the Partnership. This report now delegates decisions on operational matters to officers in consultation with the Portfolio Holder.

7.0 Financial Implications

- 7.1 The previous funding sources will allow continued support from suitable consultants and to skill-up relevant officers to lead the partnership in the longer term when eventually the funding runs out – which is not anticipated to be within the next 5 years.

7.2 Registered Providers that are successful in becoming Preferred Providers will also each be required to pay a £500/year membership fee to help contribute towards the ongoing running costs. Total costs incurred will be reviewed annually and reported to Preferred Providers via the Affordable Housing Partnership.

(Financial Services have been consulted in the preparation of this report.)

8.0 Legal Implications

- 8.1 The establishment of a list of preferred housing providers is not a procurement, which is covered by the Public Contracts Regulations 2015, but the councils may wish to consider carrying out a selection process following their respective contract procedure rules.
- 8.2 The councils will enter into an agreement with the chosen registered providers which will set out the objectives and roles of the registered providers. As the registered providers are not providing a service to the council, a formal legally binding agreement will not be prepared; instead the existing memorandum of understanding between Councils and Registered Providers shall be updated. In addition to this, the Partnership Agreement between the three local authorities will be entered into which governs how the partnership operates will also be updated. The term of the agreement will be until 31st December 2031. It will not be a partnership in law and it will not be a legal entity in its own right.
- 8.3 The council cannot insist that developers work with preferred providers to deliver their affordable housing obligations; developers are able to put forward alternative providers to the council. The model S106 agreement, which similarly against which an developer may put forward alternative provisions, requires developer/Owners to use reasonable endeavours to contract with Preferred Providers.

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(Legal Services have been consulted in preparation of this report)

9.0 Risk & Opportunity Management Implications

9.1 Two key risks have been identified:

1. If the Local Authority partnership evaluates and selects Preferred Providers, then one or more Registered Providers with a strong strategic interest in delivering new affordable housing on the Strategic Allocations may not be selected.

Risk reduced as: The existing Preferred Providers and other RPs who own or manage housing stock within the JCS area have been consulted on the review of the Affordable Housing Partnership arrangements and its approach to selecting its preferred providers. This consultation process will continue to ensure RPs have helped to inform the approach being proposed

An external consultant appointed by the three Local Authorities continues to advise and assist in the selection of Preferred Providers and to ensure that these decisions can be defended robustly.

2. If the Local Authority selects Preferred Providers, then developers may decide not to engage with them and instead award contracts to other Registered Providers

Risk reduced as: all developers and their agents with an interest in the Strategic Allocations have been consulted on our approach to selecting preferred providers. Our proposed approach takes into account the priorities of the developers and seeks to find a common

ground that ensures a competitive arrangement is maintained, whilst also ensuring that the key strategic outcomes of the Authority are supported.

A requirement for developers to use reasonable endeavours work with the preferred providers will be sought as part of the S106 affordable housing negotiations

The risk cannot be wholly mitigated, one development to date has come forward with developers engaging with an RPs who is not a Preferred Provider, Aster, who have nevertheless expressed an interest in becoming a Preferred Provider. This situation has arisen due to planning decisions being made on appeal or due to S106 drafting prior to the agreement of the JCS model.

10.0 People Impact Assessment (PIA):

10.1 The proposals do not affect any wards in the City directly, although indirectly they will assist the City in meeting housing need in the future which will be beneficial.

10.2 In terms of applicants with family connections or disability issues, it might be seen that such allocations into neighbouring district boundaries would create a dis-advantage. For clarification, the intention is for the Choice Based Lettings (currently Gloucestershire Homeseeker) to still deal with all future allocations, including allocations to any property re-lets or new units that may become available in parallel within the City boundaries. It must be understood that the reason for working across boundaries is that the ability to supply new homes across the city will be less as land availability decreases, although regeneration and re-use of land will still present opportunities. A critical element of the Affordable Housing Partnership work programme is to evaluate how the lettings of Strategic Allocations succeeds in meeting the housing needs of Gloucester and Cheltenham.

11.0 Other Corporate Implications

11.1 None directly due to the development taking place within Tewkesbury and Cheltenham boundaries.

Background Documents:

Joint Core Strategy