

CABINET

At a meeting held on Tuesday, 15 November 2022

Present:-

Councillor Ms E Colling (Vice-Chair, in the Chair) in the Chair;
Councillors Mrs J Jefferson, T Randerson, Ms M Donohue-Moncrieff, C D Maw and
J Grieve

1. DECLARATIONS OF INTEREST

Councillor Maw declared a personal interest in agenda item 7, Changing Places toilet expansion, in his capacity as Chief Officer of an organisation which was a member of the Yorkshire Coast and Ryedale Disability Forum.

Councillor Donohue-Moncrieff declared a personal interest in agenda item 7, Changing Places toilet expansion, in her capacity as one of the Council representatives on the Yorkshire Coast and Ryedale Disability Forum.

2. MINUTES

RESOLVED that the minutes of the meeting held on 18 October 2022 be approved as a correct record and signed by the Chairman.

3. PUBLIC QUESTION TIME

There were no public questions.

4. FORWARD PLAN

The Cabinet considered the Forward Plan (Reference 22/239).

RESOLVED that the Forward Plan be approved.

5. PROGRESS OF SCRUTINY OF EXECUTIVE DECISIONS

Members were advised that there had been no call-ins of executive decisions since the last meeting on 18 October.

6. SCARBOROUGH WEST PIER WORKS

The Cabinet considered a report by the Interim Chief Executive (Reference 22/237) in respect of works proposed to Scarborough's West Pier. Members were advised that regular survey work had identified repairs required to the steel sheet piling of the inner harbour section of the West Pier. Over the 35 years or so since construction, the piles had suffered corrosion as a result of the harsh salt water environment and a phenomenon known as accelerated low water corrosion. In anticipation that a major structural repair would be needed in the near future the Council had been increasing the amount of funding in harbour reserves ready for this moment. The strengthening work was expected to extend the life of this key Council asset by a further ten years and would prevent the need to place additional weight restrictions on the inner harbour pier whilst safeguarding the pier's buildings. The budget for the works included a sizeable contingency in light of the adverse marine environment and high rates of inflation within the construction industry.

RESOLVED that the Cabinet:

1. Approves that a capital budget of £1.35m be established to undertake works to extend the life of the Pier, funded as follows: £900k from Scarborough Harbour Reserves, £150k from a capital budget previously earmarked for Scarborough Piers and £300k from the capital Infrastructure budget identified in the 2022 Financial Strategy
2. Approves procurement of a design and build contractor from the YORcivil Framework using a two stage procurement process, and provides authority to enter into contract with the contractor offering the most economically advantageous tender.

Reasons

The sheet pile wall supports the inner harbour and any subsequent failure of the structure will significantly impact upon harbour operations.

The works set out in this report safeguard the harbour facilities and in particular extend the life of the structure.

7. CHANGING PLACES TOILET EXPANSION

The Cabinet considered a report by the Director (PT) (Reference 22/238) in respect of the proposed expansion of Changing Places toilet facilities in the Borough. The Portfolio Holder, Councillor Randerson welcomed this report which in accordance with the Council's Public Convenience Strategy sought to increase the number of Changing Places toilet facilities to meet the needs of users with profound disabilities. The schemes in each of the Borough's three resort towns were part funded by Government grant and a reallocation of the Council's budget for playground repairs owing to the fact that a number of play areas in Filey were being replaced in their entirety. Members commended the report noting how these schemes would help address some of the barriers which prevented disabled people participating in society and noting the significant value too of disabled people visitor spend. In reply to Members' questions, the Head of Operations, Transport and Countryside Services commented how the Council had worked with local disability organisations to ensure access arrangements were appropriate – passcode on a keypad disseminated through the national Changing Places scheme – but these arrangements would be subject to monitoring and review.

RESOLVED that the Cabinet:

1. Accepts the £160,000 grant from the Department for Levelling Up, Housing and Communities.
2. Approves the transfer of £120,000 from the Better Places budget to enable delivery of the project.
3. Approves exemptions to the Council's Contract Procedure Rules to allow the Council to procure the works required to deliver the Changing Places facilities at Whitby, Scarborough and Filey within this financial year;
4. Delegates authority to the Director (PT) to enter into the contracts to purchase a modular Changing Places building for Whitby with associated groundworks and the construction of two Changing Places spaces in Filey and Scarborough respectively.

Reasons

Accepting the recommendations will facilitate the creation of three changing places toilets in Whitby, Scarborough and Filey. All three sites should be open for April 2023; once commissioned they will significantly increase provision in the Borough's most visited locations.

8. EXCLUSION OF THE PUBLIC

The Chairman noted that the remaining item on the agenda included private and confidential appendices which might necessitate moving into private session should Members wish to discuss the sensitive information therein. In the event, the item was considered in public.

9. BETTER HOMES - USE OF COUNCIL OWNED LAND TO ACCELERATE THE DELIVERY OF QUALITY AFFORDABLE HOMES AND SOCIAL VALUE THROUGH A JOINT VENTURE DEVELOPMENT PARTNERSHIP

The Cabinet considered a report by the Director (RB) (Reference 22/232) in respect of the proposed establishment of a Joint Venture limited liability partnership to enable the development of good quality and environmentally sustainable affordable homes in the Borough. Introducing the report, the Portfolio Holder, Councillor Maw extended his thanks to all involved in bringing this significant piece of work to approval stage which would help address the acute shortage of quality and sustainable affordable housing in the Borough. The Chair, Councillor Colling echoed this commendation noting the involvement of members from across the Council through both overview and scrutiny and the Audit Committee in shaping the proposals in the report, and the briefings provided to members on the project by the Council's external legal advisers, Pinsent Masons. The Project Director, Mr Bradley too expressed his gratitude to all involved noting how the report represented the culmination of two years of detailed and complex work with the extensive involvement of members throughout in agreeing the strategic objectives of the project, undertaking a strategic options appraisal to identify the preferred delivery model (corporate Joint Venture limited liability partnership), commencing a competitive dialogue procurement exercise to identify a private sector entity with whom to form a strategic development partnership, and the in principle approval of the disposal of eight Council owned sites to the Joint Venture. The Better Homes Programme Manager, Ms Jackson then presented the detail of the report: the compelling case for change; the strategic alignment of the project not only with the Council's Corporate Plan but with wider sub-regional and county wide plans including the York & North Yorkshire devolution priorities around housing and carbon net zero/negative, York, North Yorkshire & East Riding Strategic Housing Partnership Review 2021-23, and the emerging draft Housing Strategy of the new North Yorkshire Council; how the preferred bidder, Lovell Partnerships Limited's proposed solution met the Council's requirements and aspirations; the operation of the partnership model including how future sites may be drawn down and how the Borough Council and successor authority may re-invest all or part of its development returns into the delivery of additional affordable homes; the procurement objectives and process; the financial and legal implications, critically the requirement for the approval of North Yorkshire County Council to proceed in accordance with Section 24 of the Local Government and Public Involvement in Health Act 2007; and how the project had been designed

specifically with local government reorganisation in mind to give the successor authority an additional tool to deliver affordable housing without losing momentum in this endeavour; and finally, the risks involved in terms of procurement, inaction, and entering into the Joint Venture partnership. Other Cabinet members then commented and asked questions about the report. In the ensuing discussion, it was pointed out that 100% affordable housing was not financially viable on all sites because of land values; however the cross-subsidy and mixed tenure offered through the Joint Venture partnership model would optimise the level of investment in affordable housing, notably on smaller sites, which otherwise may be unviable. The shortage of affordable homes was placed in the context of the Borough's vibrant visitor economy, the growth in second homes, holiday lets and Air B&Bs, and the consequent reduction in private sector rented accommodation. In recognition of the acute need for affordable housing in the Borough, the Project Director expected the Joint Venture partnership to consider ways to accelerate the planned development of the initial eight sites; however there were capacity and resource issues e.g. in planning which may inevitably slow the process. Members welcomed the flexibility enshrined in the partnership model which afforded the potential for further sites across North Yorkshire to be identified for development. The Chair, Councillor Colling ended the discussion by sharing the Chair of the Lives and Homes O&S Committee, Councillor Jeffels' warm statement of support for the project:

'I would like to strongly recommend the report on Better Homes to you for approval. A great deal of extensive research has been carried out by SBC officers at all levels especially financial and legal, and subsequently by the Lives and Homes O&S Committee. Many hours have been spent by the committee made up of councillors from all groups on the council questioning the council officers and the independent consultants brought in to study the Joint Venture deal between SBC and Lovells. The company was chosen as the preferred partners from an impressive shortlist and much examination by experts in the field of housing, property, finance and legal. The report, as you will see from the confidential papers, goes into considerable detail on the proposed deal which the O&S Committee felt was very sound from both SBC and Lovell - a company with a proven track record in such partnership deals - but a deal which will help many families in the Borough, potentially providing about 730 homes for those on the council's waiting list which currently stands at circa 2000. During the debates the O&S Committee has had at its challenging meetings on the Better Homes Project, much emphasis has been put on the quality of the design of the schemes, as well as on the number of properties to be provided and the financial deal of the partnership in general. My own view is that the Better Homes initiative not only provides an opportunity for a considerable number of much needed affordable homes to be built, but because we (SBC and ultimately the new North Yorkshire Council) own the sites suggested, we are in a strong position to determine the quality of the schemes and the landscaping. I hope the Cabinet endorses the recommendation of the Lives and Homes O&S Committee, and urges the North Yorkshire County Council Executive to take it forward.'

RESOLVED that the Cabinet:

(i)notes the conclusion of a compliant competitive dialogue process to procure a strategic development partner with whom to establish a Joint Venture housing development partnership, in accordance with the Public Contract Regulations 2015, the Council's agreed procurement objectives and requirements, and the Council's published Award Criteria and Evaluation Methodology; and

(ii)notes that final tenders from three bidders were received by the Council on 19th August 2022, that these tenders were evaluated by the Council's Evaluation Panel in accordance with the Award Criteria and Evaluation Methodology detailed in the published procurement documents, and that the tender evaluated as being the most economically advantageous was submitted by Lovell Partnerships Limited, who have consequently been identified as the Preferred Bidder; and

(iii)notes that all bidders have been notified of the identity of the Preferred Bidder in accordance with Regulation 86 of the Public Contract Regulations 2015 and that the statutory standstill period has ended; and

Noting that the following recommendations are each subject to the obtaining of consent from North Yorkshire County Council under the Direction made pursuant to s.24 of the Local Government & Public Involvement in Health Act 2007:-

(iv)approves the establishment of a Joint Venture limited liability partnership between the Council and Lovell Partnerships Limited, for the purposes of delivering good quality and environmentally sustainable homes, with a focus on accelerating the provision of affordable housing and generating social value; and

(v)gives final approval to the disposal of land owned by the Council at Clarence Drive Filey, Musham Bank Eastfield, Sandybed Crescent Scarborough, Pollard Gardens Scarborough, Moor Lane Newby, California Road, Whitby, Rievaulx Road Whitby and Sandsend Road Whitby, to the Joint Venture partnership, further to the in-principle approval given by Cabinet on 29th June 2021; and

(vi)enters into the contracts and all legal and financial arrangements required to establish and implement the Joint Venture limited liability partnership between the Council and Lovell Partnerships Ltd, to include:-

- Members' Agreement between the Council and Lovell Partnerships Ltd to establish a 50:50 Joint Venture limited liability partnership, on the principal terms set out at Appendix 3 ; and
- Land Transfer Agreement between the Council and the Joint Venture in respect of the Council owned sites, on the principal terms set out at Appendix 3; and
- All other agreements and documents contained in the list of documents at Appendix 3, required to implement the commercial arrangements set out in the Members' Agreement and Preferred Bidder's solution,

and delegates authority to the Chief Executive in consultation with the Leader, the Monitoring Officer, the s.151 Officer and the Project Director, to agree the final detailed terms of the legal contracts, financial instruments and ancillary documents required.

Reasons

To enable the Council and the new North Yorkshire Council to act as regional leaders in addressing the failure by the development market to provide sufficient suitable affordable housing, by being proactive in making the most effective use of the Council's landholdings to accelerate the delivery of the well-designed, energy efficient, quality affordable homes that our residents need, both today and for generations to come.

The Joint Venture ('JV') partnership will ensure the provision, at scale and pace, of the right mix of homes to meet evidenced local needs, whilst contributing significantly to the local economy, providing education, skills and employment opportunities to young people, under-represented groups, local tradespeople and SMEs, expediting the advance toward carbon net zero, and driving community benefits at a local and neighbourhood level.

Chairman