

# FAREHAM

## BOROUGH COUNCIL

### Report to the Executive for Decision 18 March 2024

<b>Portfolio:</b>	Housing
<b>Subject:</b>	<b>Affordable Housing at Welborne Garden Village</b>
<b>Report of:</b>	Director of Housing
<b>Corporate Priorities:</b>	Providing Housing Choices

#### **Purpose:**

To provide the Executive with an overview of the potential opportunity for the Council to be involved as the Registered Provider of affordable housing at Welborne Garden Village, how that involvement might work, and broad financial and operational considerations associated with the potential opportunity.

#### **Executive summary:**

Welborne Garden village will deliver 6,000 new homes. In accordance with the S106 for the outline planning approval, a minimum of 600 homes will be affordable (a mix of Affordable Rent and Shared Ownership), with the potential for a total of 1,800 affordable homes (subject to viability).

On the 09 October 2023 the Executive agreed the principle of further investigation and due diligence around the potential for Fareham Borough Council to be involved in the ownership and management of the affordable homes at Welborne, and for funding to be made available to seek appropriate advice on the matter.

Consultancy advice has now been obtained which highlights the positives and risks of potential models. This advice highlights that the initially proposed Joint Venture approach is unlikely to be attractive for the Council, and although other models for Council involvement could be more favourable, they would need to be considered in the wider context of risk, appetite and benefit.

This report explains why it is not considered appropriate for the Council to enter into the proposed Joint Venture approach for the ownership and management of the affordable homes at Welborne, but that alternative models might (subject to further legal and financial considerations) still offer some potential.

**Recommendation/Recommended Option:**

It is recommended that the Executive:

- (a) notes the content of the report;
- (b) agrees that the proposed Joint Venture model is not pursued by the Council; and
- (c) agrees that should Welborne Land Limited wish to consider discussion on the Council's potential involvement as owner/manager of the affordable homes, that further discussion takes place on the potential for a Development Agreement approach through the Council's Housing Revenue Account, and thereafter and as necessary, further work be undertaken to consider the legal and financial implications to the Council. Noting that if this were to progress positively then a further report will be brought back to the Executive before any agreements are entered into.

**Reason:**

To support the Corporate Priority of providing Housing Choices.

**Cost of proposals:**

The cost of the external advice has already been agreed and met through existing Welborne Capacity Funding. Any further advice required will be in accordance with the Executive decision on 09 October 2023.

**Appendices:** A – \*Confidential Appendix

\*It is not in the public interest to publish the information within Confidential Appendix A as, in the absence of Welborne Land Limited being in an agreement with a Registered Provider for the affordable homes at Welborne, the detail is commercially sensitive and could detrimentally impact the Council's negotiating position.

**Background papers:** None

**Reference papers:** 09 October 2023 - Executive Report: Affordable Housing at Welborne (relating to further investigation and feasibility on potential role in ownership and management of affordable homes)

# FAREHAM

## BOROUGH COUNCIL

### Executive Briefing Paper

<b>Date:</b>	18 March 2024
<b>Subject:</b>	Affordable Housing at Welborne Garden Village
<b>Briefing by:</b>	Director of Housing
<b>Portfolio:</b>	Housing

#### INTRODUCTION

1. The outline planning consent for 6,000 new homes at Welborne was granted permission in 2021. Ground and enabling works are underway and reserved matter planning applications for the first phase of new homes are with the Council as Local Planning Authority.
2. Fareham Housing have been involved in discussions on Welborne for many years, ensuring that an appropriate mix of type and size of affordable homes is provided and that the clauses in the s106 appropriately reflect how the affordable homes should be delivered, secured, and allocated.
3. As a minimum 600 new affordable homes should be provided at Welborne, with the potential for this to rise to 1,800 (subject to viability). The delivery of these homes will be phased over time as individual parcels of the site are developed.
4. Fareham Housing (the housing department) owns and manages over 2,400 affordable homes across Fareham Borough through the Council's Housing Revenue Account (HRA). This includes a mix of general purpose and sheltered housing homes. Fareham Housing also manage leaseholders and have a small number of Shared Ownership properties.
5. A report to the Executive on 09 October 2023 outlined the potential opportunity for the Council to be involved in the ownership and management of the affordable homes at Welborne, and it was agreed that this would be explored further.
6. The Council have since obtained expert advice from Redloft LLP. Redloft provided strategic advice on the Joint Venture (JV) approach proposed by Welborne Land Ltd., including the broad financial implications and key risks to the Council. The advice also identified potential alternative models for the delivery and management of the affordable homes at Welborne.
7. As no agreement has currently been reached between Welborne Land Ltd. and an affordable housing provider (whether that be the Council or another Registered

Provider), the expert advice provided by Redloft is confidential at this time. This report summarises and gives an overview of the current recommended position for the Council.

## **BACKGROUND**

8. Officers understand that a key objective for Welborne Land Ltd. is to ensure a consistent approach to the affordable housing management across the multiple phases of development at Welborne, and for the long-term quality and stewardship at the site. In this respect they would prefer a single partner for the affordable homes.
9. For the Council, one of the key objectives is that the new affordable homes reflect the affordable need in Fareham Borough (size/mix/type), and that the Social/Affordable Rent homes are made available for persons on the Council's Housing Register.

## **THE PROPOSED JOINT VENTURE APPROACH**

10. The proposed approach from Welborne Land Ltd. is for a Joint Venture (JV) for the ownership and management of the affordable units at Welborne.
11. Further detail is provided in the accompanying confidential appendix around the proposed structure and proposed financing of the JV.
12. Redloft (appointed by the Council to provide advice) have reviewed the proposed JV approach. Key aspects of their considerations include: -
  - Regulation (with the Regulator of Social Housing)
  - Funding obligations of respective parties
  - Management and operational issues
  - Governance and control (board, management, reporting etc.)
  - Set up and on-going costs
  - Values for the affordable homes

(NB: The above is not an exhaustive list of the factors considered)

### ***Regulation***

13. The regulatory oversight of social housing is increasing in response to various sad and tragic events in recent years, such as the Grenfell fire tragedy and the death of Awaab Ishak (linked with damp and mould). This regulatory process ensures social housing providers meet various expectations and standards.
14. Registered Provider (RP) status is a stipulation in S106 planning agreements on sites that include affordable housing. The Welborne planning S106 includes this obligation. This approach ensures that only appropriately regulated parties have responsibility for affordable homes. The Council (as an affordable housing provider) is a Local Authority Registered Provider. The largest other Registered Providers currently active in Fareham Borough include VIVID and Abri.
15. The proposed JV approach would involve the affordable homes at Welborne being owned and managed by another body (i.e. the JV) and that tenancies would be between the JV and the customers. Officers are therefore of the understanding that the JV would need to become a RP and this has been supported through advice obtained from the Regulator of Social Housing.
16. The process of registration to become a RP is subject to increasing and detailed scrutiny, and although the Regulator of Social Housing indicates the process to achieve

a new RP status can take over six months, experience in the sector (as advised by Redloft) suggests it can now take 18-24 months. The process includes needing Business Plans, Policies on rent setting, allocations, whistleblowing, Board/governance details, cash flow forecasts, and much more.

17. The process to set up a new RP as part of the JV is therefore resource intensive and time consuming. A high proportion of applications to become Registered Providers are unsuccessful.
18. It is not considered appropriate to reconsider the S106 obligation for the affordable housing provider to be registered. The Council currently include this S106 requirement consistently on developments that include affordable homes, and ultimately the registration status and associated regulation is in the interest of affordable housing customers.

### ***Other considerations on the proposed JV***

19. Further detail is provided in Confidential Appendix A on other considerations which at this stage are commercially sensitive.

### **CONCLUSION IN RELATION TO PROPOSED JOINT VENTURE**

20. It is recommended that the Council does not pursue the proposed JV model. The various factors identified around the process for the JV to become a RP, and other factors identified in the Confidential Appendix, means this is not considered an appropriate option for the Council.
21. Of note is that the key objectives to the Council in paragraph 9 of this report (the size and mix of the affordable homes at Welborne and nomination rights to the homes) will not be detrimentally impacted or put at risk because of not entering a JV. These aspects are all secured as part of the S106 agreement.
22. The S106 for Welborne requires the RP of the affordable homes to sign the Council's Nominations Agreement. This will require 100% of first lets of the Affordable Rent homes to go to persons/families on the Council's Housing Register, and 75% of re-lets. Therefore, even if the Council were not involved in the ownership and management of the homes at Welborne, this will not detrimentally impact the provision of the affordable homes at Welborne for customers on the Council's Housing Register.

### **ALTERNATIVE OPTIONS**

23. Although it is recommended that the Council does not pursue the JV approach, Redloft have suggested a simpler and more favourable method for the Council that could be considered. A development agreement.

#### **Development Agreement Approach**

24. A Development Agreement is the more typical practice for RPs to secure/acquire S106 affordable housing. In simple terms this type of agreement sees the purchaser (i.e. the RP) agree a package price for the affordable housing based on a red book value using a discounted cashflow model.
25. The development agreement approach would mean that an existing Registered Provider acquire the affordable homes, and own and manage those homes as part of their pre-existing RP status. This could be an option for other Registered Providers likely to already be operating in the area, or it could be an option for the Council through

Housing Revenue Account borrowing and additional HRA stock, utilising the Council's existing status as a Local Authority Registered Provider.

26. Subject to the agreement of the recommendations in this report, further discussion between Officers and Welborne Land Ltd. will take place around a more traditional development agreement approach.
27. Other parties (such as other RPs) may also be interested in a development agreement approach to take on the S106 homes at Welborne. Paragraph 22 highlights that this would not alter the amount or type of affordable housing that will be available to customers in the Borough.
28. At this stage the timely delivery and availability of new affordable homes at Welborne remains a priority. Having an appropriate agreement in place with a RP to own and manage the homes will be an essential part of this. It should therefore be recognised that the Council may not be the end provider of the affordable homes at Welborne.

### **FINANCIAL CONSIDERATIONS**

29. Of note is that had the Council pursued a Joint Venture arrangement with WLL, then the borrowing will have been through the Council's General Fund. The alternative Development Agreement approach would involve Housing Revenue Account (HRA) borrowing as the affordable homes would be an asset held under the HRA.
30. Before the Council could consider the potential for entering into a Development Agreement for the ownership of the affordable homes at Welborne (if agreeable to WLL), further investigation would be needed as to the capacity of borrowing against the HRA and ensuring that any borrowing is prudent and would not stifle, or limit, potential Council housing led regeneration or new build opportunities elsewhere in the Borough.

### **ENVIRONMENTAL CONSIDERATIONS/CARBON IMPACT ASSESSMENT**

31. The subject matter of this report and the recommendations are not anticipated to have an impact on the Council's carbon footprint, nor expected to have a detrimental or beneficial impact to the wider environment.

#### **Enquiries:**

For further information on this report please contact Robyn Lyons on (01329) 824305