

WILTSHIRE COUNCIL

CABINET
23 MARCH 2010

Subject: HOUSING PFI SCHEME – UPDATE REPORT

Cabinet member: Councillor John Brady – Economic Development,
Planning and Housing

Purpose of Report

1. To update Cabinet on the progress of the project.

Background

2. We are negotiating the contract with Silbury Housing Ltd (SHL), a consortium led by Sarsen Housing Association in partnership with Barclays Private Equity. Sarsen and Persimmon Homes are providing approximately half of the land for the project and Westbury Partnerships (part of the Persimmon Group) will be the building contractor.
3. A detailed report was considered by Cabinet on 24 November 2009. At that meeting it was agreed to proceed with a reduced scheme of around 350 homes in total, on a phased basis, with approximately 242 homes being provided in Phase 1. It was also agreed to submit a final business case with the intention of signing the PFI contract by the end of March 2010 and to request a further report before entering into the contract.

Main Considerations for the Council

4. The project has been further delayed, due to land issues and ongoing commercial negotiations with SHL, such that it will no longer be possible to sign the contract in March. An update on the key work areas is set out below.

Land issues

5. Regrettably, due to previous uncertainty over planning permissions and the risk of the project not proceeding, SHL's due diligence work on Council provided development sites was not started until late 2009, when planning permissions were in place. This has identified a number of title issues, which, while they would not normally be problematic for housing developments, are perceived as having an increased level of risk within the PFI contractual framework.
6. We are currently working with SHL to resolve these issues in the most expedient way, while not increasing the Council's risks unnecessarily. This could involve a combination of appropriation of rights, insurance, planning amendments and site fencing works. Potentially this could lead to some sites being rolled into Phase 2 or dropped altogether. This has inevitably diverted

resources away from other work areas and there will be cost and risk implications for the project.

Project Agreement

7. Final negotiations on the contract (known as the Project Agreement) are nearing completion. This has been delayed, in part, due to the land issues referred to above. Once commercial agreement has been reached, the Project Agreement, derogations report and supporting papers will be submitted to the government's Homes and Communities Agency (HCA) for review. This process should take approximately six to eight weeks to complete. It is not known at this stage whether our contract will be agreed by HCA or if a further round of negotiations is required.

Final business case

8. It has been agreed with HCA for the final business case to be submitted incrementally. Key elements of this are the Project Agreement (see above), and value for money and affordability information (see below).

Value for money

9. It is necessary to demonstrate that the project provides value for money (VfM). We have submitted the required VfM information to HCA, based on Phase 1, including a comparison of key cost elements with available benchmarks. This will be carefully scrutinised due the single bidder situation. We believe that overall VfM is being provided. However, it is inevitable that, once the costs are broken down, certain areas will demonstrate better VfM than others.

Persimmon land

10. Our specification requires approximately 50% of the homes to be on private sector land, the majority of which is being provided by Persimmon Homes. At the outset of the project the company made it clear that it was only prepared to release this land if the price included compensation for the profit that it would otherwise have received if it had developed the land for private housing.
11. The impact of this is that Persimmon's land price is substantially higher than current market values and at least double the value of the Council's sites in terms of price per acre and price per unit. Persimmon is not prepared to negotiate any further on this element of the transaction even though its' sister company will be constructing the PFI homes.
12. The Council's Project Board has considered the commercial agreement between Sarsen and Persimmon in respect of the private sector land. While it is acknowledged that the Persimmon land purchase may not represent value for money as a stand alone transaction, the Board has recognised that the Council is, in fact, procuring completed units via Persimmon i.e. land and build. In the Council's view and as verified by our external advisers, the average unit capital cost of approximately £156,000 provides value for money, including against the Department for Communities and Local Government's (CLG) benchmarks.

Affordability

13. The project is supported by a maximum PFI credit allocation (central government subsidy) of £83 million to deliver the reduced scheme of around 350 homes. The actual credit level will be dependent on the final number of homes provided. If we are only able to deliver Phase 1, there will be significantly less than £83 million. In addition to providing approximately 50% of the required land at nil cost, the Council will be making an annual index linked revenue contribution of approximately £220,000 at current prices for 30 years. Our full revenue contribution will be committed once Phase 1 of the project is signed, regardless of whether subsequent phases can be delivered.
14. We are in the process of submitting affordability information to HCA. It is anticipated this will demonstrate that Phase 1 of the project is affordable to the Council with the total PFI credit being allocated on a pro-rata basis from 350 to 242 homes.
15. The affordability of the project has been modelled on the basis that Phase 2 will not be contractually committed until after service delivery (the date on which the first homes are ready for occupation) has commenced on the first phase and, therefore, the PFI credit will be allocated in two tranches. If the second phase were to be committed prior to initial service commencement on Phase 1, this would have a positive impact on the project's affordability, so more homes could be provided.

Phase 2

16. Work has commenced to identify sites for the remaining 100 or so homes. Ideally these would be brought forward quickly for the reason outlined above; also due to the challenges of securing planning permission. However, the current priority, in terms of resources, is to close Phase 1.

Programme

17. It is no longer possible to sign the PFI contract in March 2010. The revised date will depend on how quickly land issues can be resolved and commercial agreement reached with SHL. This could potentially take until the summer.
18. Further slippage in the programme could result in loss of government support for the project. This is due to be discussed with HCA/CLG on 12 March and a verbal update will be provided at the Cabinet meeting. Delay could also cause Persimmon to withdraw its land
19. Additionally, there is a degree of uncertainty about the impact and outcome of the general election on timescales. However, officers are working to minimise the impact of 'purdah' on external approvals and consents required.

Environmental Impact of the Proposal

20. Provision of around 350 new homes will inevitably have an environmental impact on individual localities. However, it is anticipated that at least 150 of the homes will be located on previously developed 'brown field' land.

21. All PFI homes will meet Level 3 of the Code for Sustainable Homes, meaning they achieve 25% reduction in energy consumption from Building Regulations standards. A number of environmentally sustainable features will be incorporated including low water consumption fittings, energy efficient lighting and photovoltaic roof tiles.

Equalities Impact of the Proposal

22. All general needs homes will be allocated through the Homes4Wiltshire choice based lettings (CBL) system. The CBL policy ensures that nominations are made in a fair and transparent way. Allocations to the temporary accommodation units will be managed outside of CBL.
23. The homes will also be built to Lifetime Home standards meaning they are suitable for a wide range of tenants and are capable of adaptation to meet the changing needs of residents due to age and disability etc.

Risk Assessment

24. The project has recently benefitted from an internal audit and identified risks are being managed. The risk of project failure is regularly reviewed when updating the corporate risk register.
25. There is a risk of further slippage in the programme resulting in loss of government support for the project or causing Persimmon to withdraw its land. This compounded by uncertainty about the impact and outcome of the general election on timescales. However, officers are working with SHL to bring forward financial close as quickly as possible. A verbal update will be provided at the Cabinet meeting.
26. There are further risks identified within this report in respect of the land issues currently being resolved; the potential for additional set up costs to be incurred, including on Phase 2 and; of HCA not approving the negotiated Project Agreement.

Financial Implications

27. Indications at this stage are that Phase 1 of the project will provide value for money, though the Council has to work through a number of issues regarding land, which could potentially impact on the position. There are also a number of uncertainties regarding Phase 2. The Persimmon land cost should be appraised within the overall land and build price.
28. Phase 1 is likely to be affordable to the Council, even if Phase 2 does not proceed, on the basis of £83 million PFI credit being allocated on a pro-rata basis from 350 to 242 homes. There is a strong incentive for Phase 2 to be committed prior to initial service commencement on Phase 1, due the credit being allocated in a single tranche. However, to be prudent, it has been assumed that the credit will be allocated in two tranches.
29. Barclays are providing all senior debt for Phase 1 and funder's due diligence work is currently underway.

30. There has been no significant change to the Council's total set up costs estimate of some £2 million, of which £1.3 million has been spent to date and is irrecoverable regardless of whether the project proceeds. A budget of £350,000 has been identified for 2010/11. Future set up costs are dependant largely on timing issues, including with regard to Phase 2.

Legal Implications

31. The Project Agreement is still being finalised between SHL and the Council. This needs to be submitted for approval by HCA. There is a risk that HCA may not agree our negotiated position and this could delay financial close.

Options Considered

32. The Council's Project Board has reviewed progress of the project and the preferred way forward is to ensure that sufficient resources are deployed in order to achieve financial close as quickly as possible, without compromising the Council's commercial position unnecessarily.

Conclusions

33. The project has been further delayed due to land issues and ongoing commercial negotiations, with consequential risk implications. As previously agreed, a final report will be brought before Cabinet prior to financial close.

Proposal

34. It is proposed that Cabinet notes the report.

Reason for Proposal

35. To ensure that Cabinet is updated on the progress of the project.

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23 March 2010

Background Papers

None.