
**COCKERTON REGENERATION 2012-2014
PROCUREMENT OF DEVELOPER PARTNERS**

**Responsible Cabinet Members – Councillor Chris McEwan, Economy and Regeneration
Portfolio and Councillor Veronica Copeland, Adult Social Care and Housing Portfolio**

**Responsible Directors – Richard Alty, Director of Place and
Murray Rose, Director of People**

SUMMARY REPORT

Purpose of the Report

1. To seek Cabinet’s agreement for officers to negotiate directly with Dunelm Property Services Limited (a subsidiary of the Esh Group) and Endeavour Housing as a special purchaser procurement in relation to the demolition and re-provision of housing on the Cockerton estate.

Summary

2. A Cabinet report was approved on 13 September 2011 confirming the release of £3.13M of capital funding over two years commencing in 2012, to regenerate Cockerton. The £3.13M budget covers the refurbishment costs of existing retained Council dwellings, the provision of home loss and disturbance payments, and a contingency for the termination of existing shop leases on Nickstream Lane. Within the report there was a commitment to bring a further report to Cabinet for approval which would outline the preferred procurement route to deliver the regeneration programme. This report focuses on the procurement route in relation to the demolitions and re-provision of housing within the estate.
3. There is a requirement to purchase, demolish, and prepare a number of areas within Cockerton in order to facilitate the regeneration programme. The phasing of this improvement work will be agreed to ensure that the level of inconvenience and impact on the community is kept to a minimum, and, to limit any revenue costs to the Authority. The future of the Nickstream Lane shopping parade will be the subject of further dialogue and discussion between the shop leaseholders and the developer with recommendations, following an options appraisal, coming back to a future Cabinet meeting for approval.
4. Dunelm Acorn Homes Limited (“Dunelm”) has been awarded grant funding of £900,000 towards the Cockerton regeneration project. This was achieved through the Homes and Communities Agency (“HCA”) ‘Affordable Homes Programme’ following the Comprehensive Spending Review. This is an arrangement between the HCA and Dunelm (and other registered social landlords) to deliver an affordable homes programme in the region from 2011 to 2015. Dunelm has indicated a willingness to work with the Council on the Cockerton project.

5. The combination of HCA grant conditions and DCLG conditions in relation to the Council House Finance reforms are such that officers are recommending negotiating directly with Dunelm and Endeavour to secure the £900,000 investment in Darlington as a special purchaser. Officers will report back to Cabinet in due course in relation to the details of a proposed Development Agreement and safeguards to deliver the project and minimise risks to the Council.
6. It is anticipated that to enable the scheme to meet the Council's requirements that the disposal of the land involved in the development may be at an undervalue and further authorisation will be sought from Cabinet to seek the required authority if this is the case.
7. Development schemes where a local authority sets requirements of the development must be procured in accordance with the Public Contracts Regulations 2006.

Recommendation

8. It is recommended that :-
 - (a) Members agree to officers entering into negotiations direct with Dunelm and Endeavour Housing Association as special purchasers in relation to the demolitions and re-provision of housing on the Cockerton Estate.
 - (b) The Director of Resources report back to Cabinet on the completion of negotiations with recommendations for a Development Agreement and appropriate safeguards to protect the Council's interests and minimise its risks as referred to in paragraph 23 of the main report.
 - (c) In the event of negotiations referred to in a) and b) breaking down then officers are authorised to procure developer partners through a tender process using the Homes and Communities Framework agreement or a Council procurement.
 - (d) Members approve the demolition and clearance works to be undertaken through Design and Building Services in order to comply with Department of Communities and Local Government conditions as part of the Council House Finance reforms.

Reasons

9. The recommendations are supported by the following reasons :-
 - (a) In order to meet the required timescales to secure the HCA grant investment into the Cockerton Regeneration scheme the Council will need to work with Dunelm to which it is awarded.
 - (b) The time limits on the grant award are such that it would not allow for a normal tendering procedure without significant risk to the HCA grant being lost to Darlington.
 - (c) The reform of Council Housing finance has created time pressures to deliver the vacation and demolition of 77 properties on the estate in areas 1 to 5 identified on the attached plan and the suggested procurement route would provide the least risk to achieving this requirement.

- (d) The Two Castles Housing Association Framework provides the only procurement route to achieve the Cockerton Regeneration programme within the timescales, new build targets, and, grant conditions prescribed by the HCA.
- (e) Some selective purchases, demolitions and redevelopment are required in Areas 1-6 to facilitate the regeneration programme.

Richard Alty, Director of Place
Murray Rose, Director of People

Background Papers

- (i) Cabinet Report 13 September 2011 – Cockerton Regeneration 2012-14
- (ii) Capital Medium Term Financial Plan, 3 March 2011
- (iii) Two Castles Housing Association Framework Agreement, August 2011

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S17 Crime and Disorder	The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is considered that some of the improvement works identified in this report will be beneficial in reducing crime.
Health and Well Being	The proposed regeneration of Cockerton will improve the health and well being of residents through improved housing conditions and improved access to sustainable transport routes. The re-provision of green space and provision of children's play equipment will encourage active lifestyles.
Carbon Impact	The implementation of the proposed Cockerton regeneration programme will reduce energy usage and provide higher levels of thermal comfort for dwellings benefitting from these measures thus reducing carbon emissions.
Diversity	The proposed regeneration of Cockerton will provide more diverse housing to meet the housing needs of local people across all tenures.
Wards Affected	East and West Cockerton.
Groups Affected	Residents of Cockerton / Local Businesses.
Budget and Policy Framework	This report does not recommend any changes to the policy framework.
Key Decision	This is a key decision because agreement to the recommendation will result in the Council incurring expenditure that is significant.
Urgent Decision	For the purpose of the 'call-in' procedure this represents an urgent matter, in order to meet the requirements of the Homes and Communities Agency (HCA) funding agreement which is part of the National Affordable Homes Programme (NAHP) 2011/15 and the CLG requirements for removing the demolished properties from the debt settlement calculation prior to the HRA moving to self-financing.
One Darlington: Perfectly Placed	The proposed regeneration of Cockerton contributes to the delivery of the Sustainable Community Strategy through each of the theme areas.
Efficiency	Planned investment through the proposed regeneration at Cockerton will reduce the frequency and cost of reactive repairs and maintenance.

MAIN REPORT

Information and Analysis

10. There are three elements to the proposed regeneration of Cockerton. The first element is the refurbishment of existing and retained adjacent local authority housing in Cockerton largely supported by the £3.13M already approved by Cabinet from the Housing Business Plan on 13th September 2011. The second element is the demolition and clearance of areas 1-5 to facilitate the rebuilding of new homes that better meets community requirements. The third and final element is in respect to the long term plan for the Nickstream Lane shopping parade which the Council currently leases to a number of local services.
11. Exploratory discussions were undertaken with a couple of developers at their risk to examine the financial viability of regenerating Cockerton and examining an appropriate route to deliver the improvements. From those discussions, Dunelm submitted an indicative application for HCA grant funding which received £900k of confirmed grant funding support in July 2011. The application was submitted following discussions with the Authority to meet the HCA's grant funding submission deadline for a 4 year investment programme 2011-2015. The HCA's grant conditions stipulate that the £900k of funding allocated for Cockerton cannot be allocated to another provider and the funding will be lost to Darlington if the Esh Group/Dunelm does not deliver 60 units of affordable housing in Cockerton on a phased basis by 2013-14. Esh Group's overall development programme is to deliver 497 new homes across the country by March 2015 to meet HCA grant conditions.
12. To meet the obligations of the Public Contracts Regulations 2006 there are a number of possible procurement routes available to the Council in connection with this scheme:-
 - (a) There is an existing framework agreement in place that has already been set up under the required process (OJEU) that the Council could lawfully use to meet its legal obligation to which Dunelm is the framework provider ("the Two Castles Housing Association Framework");
 - (b) The Council could run its own procurement process;
 - (c) The Council could seek to use other existing frameworks.
13. Using the framework agreement with Dunelm has the following practical advantages:-
 - (a) Dunelm are practically well placed to deliver housing requirements
 - (b) Minimises risk to grant funding from the HCA being lost to the area
14. The framework agreement is a single party framework which means that the scheme will not be re-priced competitively which is a value for money risk. This risk is mitigated by the following:
 - (a) The OJEU process which initially selected Dunelm was financially assessed.
 - (b) Negotiations will ensure that pricing of the project follows the competitive pricing already supplied in the original procurement.

- (c) If there are elements of the development which are not priced in accordance with the pricing mechanism which formed part of the competitive process already carried out then:-
 - (i) a benchmarking exercise will be carried out to validate pricing or
 - (ii) an alternative procurement route will need to be considered.

- 15. Legal Services and Procurement advice is that the Two Castles Housing Association Framework Agreement has been procured in accordance with procedure rules. The Two Castles Housing Association Framework Agreement provides an opportunity to contract with Dunelm and Endeavour to secure an early commencement and retain the £900,000 HCA investment in Darlington.

- 16. To facilitate new build housing development and regeneration projects in view of the HCA's amended approach to funding, Two Castles Housing Association Limited commenced a procurement exercise by way of a restricted procedure under cover of OJEU Notice No. 2011/S 63-102095 for a development partner to join its developer framework agreement. This followed Two Castles Housing Associations decision to withdraw from the Spirit Partnership (which was a consortium of approved developer partners) on the basis that they wished to explore a more efficient and cost effective delivery vehicle to deliver their HCA allocation of 250 new homes by March 2015. Following the conclusion of the procurement process, Dunelm was selected to be Two Castles' development partner under the framework agreement.

- 17. Mindful of the benefits that an efficient and effective developer framework agreement could bring to other contracting authorities, both those who were successful and those who were not in respect of the Homes and Communities Agency's (HCA's) Affordable Homes Programme 2011 to 2015, Two Castles set up the Framework Agreement as a central purchasing body on behalf of itself, local authorities, Arms Length Management Organisations and other registered providers of social housing within an 80 mile radius of Carlisle and a 100 mile radius of Newcastle upon Tyne.

- 18. Organisations which fall within this geographical range are, therefore, able to join Two Castles' procurement programme, satisfying their respective procurement obligations and utilising the services of an experienced developer who has been successful in obtaining a funding allocation from the HCA. The Framework Agreement is for four years and the total aggregate value of development and regeneration works that can be awarded under the Framework Agreement is up to £75,000,000 (seventy five million pounds). There is sufficient capacity within the existing development programme for Cockerton to be delivered through this procurement route. Trowers and Hamlins Solicitors will provide a warranted report to joining parties to the framework agreement that it has been properly procured.

- 19. There is only one framework provider on the framework agreement however the original procurement was carried out on the basis of 'most economically advantageous tender' and so there has been an exercise to demonstrate value for money. However further validation may be appropriate.

- 20. Subject to Member approval, the Council will engage with Dunelm on the recommended procurement route through the Two Castles Housing Association Framework. An agreed Development Agreement will be established between the Council, Dunelm and Endeavour

Housing Association (as the approved Registered Social Housing provider) to finalise the terms and conditions of any Development Agreement. The terms and conditions of any Development Agreement will be the subject of a future Cabinet report and will seek to secure:-

- (a) that the demolition and clearance costs are recovered from the developer,
 - (b) any surplus capital receipts raised from market sales are shared with the Council through an overage arrangement,
 - (c) key strategic targets are met in accordance with grant conditions,
 - (d) value for money is demonstrated and
 - (e) project risks are minimised for the Council (i.e. any final land transfer will not take place until practical completion).
21. If officers are unable to agree terms and conditions for the Development Agreement that they are prepared to recommend to Members, they will commence tendering the Homes and Communities Agency Framework Agreement which has been procured separately by the Homes and Communities Agency to assist with the delivery of their 4 year investment programme through a list of 17 preferred partners. In these circumstances it is recognised that grant from the HCA is likely to be lost to other schemes in the HCA programme. Any new Framework Agreement adopted and accessed, will be the subject of a future Cabinet report.
22. An early start on site at Cockerton provides an opportunity for essential investment to deliver improvements to the quality of life of residents at Cockerton quickly, and, also helps to limit the revenue implications of lost rental income and associated security of vacated properties, whose vacation is essential to the delivery of the regeneration programme. The current HCA grant conditions stipulate that 30 new affordable homes will be delivered by March 2013 and a further 30 new affordable homes by March 20104.
23. The Housing Management Team have identified opportunities to offer displaced residents from Cockerton anticipated vacancies at Windsor Court and at Parkside on completion of improvement works in addition to offers of re-accommodation generated from Esh's other two developments in Darlington. The Cockerton regeneration area has previously been identified as part of the Local Sustainable Transport Fund (LSTF) programme of investment for bus stop and sustainable travel route improvements. These LSTF improvements will be integrated into the overall regeneration proposals at the appropriate phased time.
24. In accordance with the requirements of the Council House Finance Reforms, the Authority were required to provide detailed information in October 2011 in respect of the 77 demolitions proposed as part of the Cockerton Regeneration programme to the Department of Communities and Local Government (DCLG). To meet the conditions of the DCLG, the demolitions and clearance work must be completed by the Council prior to any land disposals to the Esh Group to facilitate the regeneration. The Council were required as part of this agreement with DCLG to ensure the 77 surplus Council dwellings are fully vacated by 2012-13, with demolition and clearance completed by 2013-14.
25. The information provided to DCLG was used to inform the level of additional public sector borrowing that will be allocated to Darlington following the changes to Council house financing on 1st April 2012. In order to reduce the level of additional borrowing allocated to Darlington, the Authority advised the Department of Communities and Local Government (DCLG) of the proposed demolitions at Cockerton. The Authority is now

committed to undertaking the demolition and clearance of the 77 properties outlined in Areas 1-5 (see **Appendix 1**. If the outcome of an options appraisal for the regeneration of the Nickstream Lane shops proposes demolition, clearance and redevelopment, this will fall outside of the scope of Homes and Communities Agency grant conditions (See **Appendix 1, Area 6**) so would be considered towards the end of the 2 year development programme.

26. In identifying the 77 properties for demolition, careful consideration has been given to focusing on removing LA housing stock which is over supplied and unpopular, creating a better external environment whilst improving the accessibility and safety for pedestrians, and, to limit the number of privately owned properties that are affected by the demolition proposals, as this will add significant costs to the programme.
27. In carrying out the regeneration of housing in the Cockerton area, this project will deliver one of the priorities for housing regeneration identified in the local development plan. The Council's planning policies also require the re-provision of the open space that is to be lost (**Area 5 on Appendix 1** to be re-provided on Area 1) and the installation of children's' play equipment there.
28. Retail planning policy advice is that shops need to be re-provided should any shops be lost, and, that this could be in the form of an all-in-one mini-market with perhaps one small second unit for a class A5 takeaway, with the total gross floor space not exceeding 400sqm (for comparison, the small mini-market (Co-op) at West Park is some 360sqm). These requirements will need to be factored into any further discussions about the future of the Nickstream Lane shopping parade and form part of the recommendations of a future Cabinet report following an options appraisal. Members should therefore note that whilst discussions have commenced with the local community and tenants of area 6 regarding its future regeneration options the business case will need to be further developed before a course of action can be recommended to Cabinet.
29. Any negotiations for the transfer of ownership of the cleared areas plus any residual open space required to facilitate the regeneration (see **Appendix 1, Areas 1 to 6**) will be through the Development Agreement to be negotiated.

Financial Implications

30. The full demolition and clearance costs associated with preparing the Cockerton site for redevelopment will be negotiated as part of the Development Agreement with Esh Group. The costs of relocation, decantment and disturbance for any displaced residents will be met by the Council through the approved £3.13M budget (approximately £418k) with the remaining budget allocated to refurbishment of retained Council housing and a contingency budget for the negotiated termination of shop leases should this progress. The demolition and site preparatory work will be undertaken through Design and Building Services.
31. Estates Section will assess and negotiate any opportunity to realise a capital receipt from the disposal of surplus land associated with the clearance areas and open space. In addition consideration will be given to entering into an arrangement whereby any surplus profits generated from the scheme from market sales or reduced development costs could be shared with the Authority through an overage arrangement as part of the Development Agreement.
32. The overall investment in Cockerton includes £900k of Homes and Communities Agency investment, private sector leverage, and, through a net increase in new homes (qualifying

for approximately £110k of New Homes Bonus over a six year period). In addition, a sum of £75k has been identified and approved for bus stop and sustainable travel improvements as part of the Local Sustainable Transport Fund (LSTF). It is estimated that the Developer Partners are likely to invest around £5,000,000.

33. An assessment of the lost rental income from any demolished local authority housing against any savings to the repairs and maintenance programme has been calculated, and, is affordable within the 30 year Housing Business Plan.

Outcome of Consultation

34. Initial resident consultation was undertaken in August 2011 with questionnaires and letters being circulated to 414 properties in total. The questionnaires invited resident comments on a range of issues including Internal Planned Maintenance (for Council tenants only), Environmental works, Traffic Calming, Bus Stops and Bus Routes, Quality of Open Space, Mix of Properties, Mix of Ownership, Cycle Routes and Car Parking. In total 73 responses were received representing an 18% response rate. Respondents were also invited to participate in a focus group to further develop and agree forward plans for investment, 29 respondents positively volunteered to be part of a focus group.
35. Respondents placed particular importance on investment in internal planned maintenance, reduction in flats and more family homes, improving boundary fencing for security purposes, improving open space provision creating natural surveillance, and introducing some form of traffic calming. Further consultation subsequently took place in early September with the Tenants Board and local residents to firm up plans to improve the area including selective demolition.
36. A special meeting was held with shop leaseholders on 14th September 2011 which captured views about proposals to regenerate the Nickstream shops. Following this meeting a public petition signed by a number of residents was received by the Authority in support of the shopping parade at Nickstream Lane and some of its services. In response to the petition, the Authority undertook an additional survey with local residents to ascertain which of the services / shops at Nickstream Lane were used and how frequently. A summary and analysis of the results of this survey are attached to this report at **Appendix 2**.
37. The key outcomes of the survey showed that there was demand for the convenience store but, although the other services in the parade were accessed, they were used less frequently and by a much smaller community group. Further work and discussion will be undertaken with the shop leaseholders and the developer partner to determine the best way to deliver improvements to the area currently occupied by the Nickstream Lane shopping parade. A business case proposal examining the different options to regenerate the Nickstream Lane shopping parade will be the subject of a future Cabinet report.