



Report to Cabinet

Date: 15th July 2020

Title: Tatling End Housing Project

Relevant councillor(s): Cllr John Chilver (Property & Assets)

Author and/or contact officer: John Reed, Richard Ambrose, Chris Marchant, Gill Cotterell

Ward(s) affected: Denham

Recommendations:

Members are recommended:

1. **To note the progress of this development and the financial details set out in part 2 of this report.**
2. **Authorise the Service Director Property and Assets in consultation with the Cabinet Member for Property & Assets and the Service Director Corporate Finance;**
 - **To agree the terms of the disposal of the development at Tatling End to Consilio Property Limited before or after Practical Completion in accordance with the values set out in Part 2 of this report, noting that the disposal value will comply with S123 of the Local Government Act 1972.**
 - **Agree the terms of the proposed funding agreement to Consilio Property Ltd to enable the transfer of the development to Consilio Property Ltd**
To be authorised to complete the legal agreements in relation to the disposal of the development at Tatling End and the proposed funding agreement to Consilio Property Ltd.
3. **To delegate to the Service Director Property & Assets in consultation with the Cabinet Member for Property & Assets and the Service Director Corporate Finance to monitor the performance of the Company and its arrangements for managing the units.**

Reason for decision: To ensure the development is managed and used for affordable and private rented housing upon completion as soon as possible.

Executive summary

- 1.1 Consilio as a wholly owned Council company, presents the Council with a great opportunity for future management of residential investment property, giving the Council flexibility and control over how the housing is used and by whom, be it for key workers or affordable housing with 100% nomination rights, as well as establishing a supply of well-maintained private rental accommodation. For this reason and to avoid setting up a Housing Revenue Account and consequential rights to buy for tenants, it is recommended that this development is transferred to Consilio Property Ltd to manage both the market rented and affordable housing. The transfer would be split into two transactions between the market rented properties and the affordable housing.

Content of Report

- 1.2 This paper updates the Executive on the Tatling End housing project in Denham and details of the proposed approach originally planned by SBDC, but which now falls to the Buckinghamshire Council, to transfer the asset to Consilio Property Ltd a wholly owned Council company for future ownership and management.

Background

- 1.3 The former Gerrard Cross police station site was acquired from Thames Valley Police on 4 July 2016 for the purpose of developing it for a combination of affordable and market rent housing.
- 1.4 The land purchase was originally acquired to guarantee the delivery of 40% affordable housing on site which private developers on other sites had been unable to deliver through the planning process for the past 15 years in the previous SBDC and now Buckinghamshire Council due to viability discussions related to land values. Secondly, to provide private rented flats that would provide income generating opportunities for the Council supporting the affordable provision as part of an overall strategy to offset the reduction in Government funding to the Council. The aspiration was to provide an exemplar project to demonstrate good private rented and affordable housing that could be delivered on site in South Bucks.
- 1.5 Planning consent for the mixed housing development was granted in August 2018 under application no. 17/02396/FUL.
- 1.6 The proposed design provides 34 residential apartments, 14 (41%) of which are for affordable housing and 20 units (59%) for the private rental market. A total of 62 vehicle parking spaces are provided as part of the proposed development with 40 cycle parking spaces. A site plan is attached at Appendix A. There is potential to develop a further 4 to 6 units on site in the future subject to planning.

- 1.7 The construction project was procured through the Scape Framework under a design and build contract delivered by the Principal Contractor, Willmott Dixon. The consultancy services for project management quantity surveying have been provided by Pick Everard. The overall project was managed by Officers. This approach minimised delay in starting works and provided a mainly fixed price with very few risks sitting with the Council – for example contamination (paid for by previous owner), Corvid 19 effects and utilities.
- 1.8 SBDC Cabinet on 17 October 2018, approved the final business case giving authority to proceed with the housing development project. Cabinet also authorised the Director of Resources to dispose of the development to Consilio Property Ltd (the Council's wholly owned subsidiary Property Company), to manage the flats.
- 1.9 Construction works on site commenced in February 2019 with completion anticipated early August 2020 due to some delay because of Corvid 19 related supply chain issues and a 3-week site shut down.
- 1.10 The proposed model of mixed residential development enables the Council to retain control of all the properties for maximum flexibility on future use and occupation, including key worker housing as required.
- 1.11 Consilio was set up as a wholly owned Council company to be a vehicle for providing affordable and private rented housing and investing in commercial property. Legal advice was followed to ensure it was legally compliant. The financial return on the commercial property / private rental units was to be used to support the costs of developing and managing affordable housing.

The Business Case

- 1.12 SBDC Cabinet had the following aims when it agreed to purchase and develop the former Police Station site and then transfer ownership of the entire development to Consilio Property Ltd, its wholly owned investment company:
 - i. Acquire site at a premium from the Police as a special purchaser and thus avoid the site being developed by a London Borough.
 - ii. To deliver affordable housing in the district since there is a shortage of supply and temporary accommodation is costly. Part of that approach was to help to reduce spending on Bed and Breakfast (B & B) accommodation which at one point was costing approximately £600,000 pa, much of it out of Council in Slough, resulting in fractured social, mental and health care, as well as prejudicing safeguarding of vulnerable people. The 14 affordable units in this scheme would help to alleviate the reliance on B & B for those for whom more permanent accommodation is required. It is estimated this scheme would reduce potential B&B costs by £237,000 per annum (£16,950 per property calculated using the cost avoidance assessment basis

by Housing team) as there is likely to be an ongoing need for affordable housing to reduce the call for temporary housing.

- iii. To achieve an income stream from the provision of private mid-market rental accommodation.
 - iv. Maintain ownership and management of the flats to ensure future flexibility.
 - v. To transfer the assets to the Councils wholly owned subsidiary company Consilio to maximise the long term income and potential from the development.
 - vi. To retain 100% nomination rights to the affordable housing and the private rented that would provide high quality private rental accommodation to cross subsidise the affordable housing delivery.
 - vii. Following legal advice, to remove the risk of right to buy as Consilio cannot grant secure tenancies and tenants therefore would not enjoy the statutory Right to Buy scheme; this is the case even if Consilio granted longer term security of tenure. Tenants of housing associations or Councils have the right to buy or right to acquire which means tenants can purchase the freehold of the property they rent at a discounted price.
 - viii. The transfer will take place at Market Value to meet section 123 requirements and Stamp Duty Land Tax (SDLT) was paid on purchase but will not be paid on transfer to the wholly owned Council company. KPMG have confirmed that Stamp Duty on the transfer will be subject to inter-company relief of 100% as Consilio is a wholly owned subsidiary of Buckinghamshire Council, so is not a relevant consideration.
 - ix. As Buckinghamshire Council is completing the construction of Tatling End, it will have 'Person Constructing' status, and the transfer of interest to Consilio will be zero-rated for VAT purposes. However, the transfer should be completed before the first rents are received to allow the Council to recover all the VAT on professional fees and non- construction costs fees associated with the development.
- 1.13 With regards to the management of the affordable housing, the planning consent requires this to be done by an appropriately registered housing provider. To meet all of these objectives the longer term proposal is that Consilio Property Ltd will become a registered housing provider in order to manage the future lettings of the affordable housing directly but this will be for the new Council to decide in the context of its plans for Consilio going forward and a further report will be prepared in due course. The timescales for establishing a company as a Registered Housing Provider can be lengthy, with an expected lead time of 6 -12 months from completed submission.
- 1.14 To avoid any delays in letting the affordable flats an interim management arrangement has been put in place whereby Consilio as Landlord, would contract with a local managing agent to manage the affordable lettings, working very closely with the housing team to ensure a compliant approach or a registered provider. This

would still not give rise to the Right to Buy scheme, as stated in 3.1.7 above. The private rented flats will be managed through the same local agent. This approach is being agreed with planning officers.

- 1.15 There will be a separate maintenance agreement in place for the properties and landscaping, the cost of which is included in the Company operating costs.
- 1.16 Consilio is one of several options / models available to the Council to help deliver future housing plans whether for affordable, key worker, assisted living, private rented or other schemes. This could support the Council to deliver high quality homes and consider approaches to meet very low energy, carbon neutral and sustainable schemes.

Other options considered

1.17 The options are:

- Do nothing – This is not the recommended option for the reasons set out in this report.
- For Buckinghamshire Council to sell or rent the flats after Practical Completion of the construction works – This is not the recommended option for the reasons set out in this report.
- Transfer the residential properties created by the project to Consilio Property Limited in view of the progress of the development and that completion is due early August – This is the recommended option for the reasons set out in this report and the Part 2 report considered in the confidential part of this agenda.

Legal and financial implications

- 1.18 The total cost of the development including land acquisition, is considered in the confidential part of this report as set out in Part 2 of this agenda. The project has been fully funded from the Council Capital Budget.
- 1.19 The following view has been received by the 151 Officer: Market conditions have changed since this project was initially agreed, particularly in respect of the Treasury 1% increase on the margin used to determine PWLB rates. Although the original intention was to charge Consilio a 1% margin on the loan rate, this has been reduced to a 0.25% margin to reflect the increase in the cost of borrowing from PWLB. However, in order to deliver the affordable housing objective in the area, the transfer of the property into Consilio, will ensure that Right to Buy does not apply and therefore protects the model for the ongoing provision of affordable housing.
- 1.20 The government is currently consulting on PWLB borrowing, with the consultation running until the end of July 2020. The government is minded to remove the 1% increased margin, but only once there is legislation in place to prevent local

authorities from borrowing from PWLB for commercial investments, and this may take some time. The proposed loan rates in the report comply with State Aid requirements.

- 1.21 There is currently an MTFP target for income from Tatling End; £129k (20/21), £276k (21/22) and £285k (22/23). However, with this approach, the income will accrue in Consilio's accounts rather than the Council's, as per all their investment income. The Council receives income from Consilio on a regular annual basis from the margins it pays on loans from the Council and this is included in the Council's MTFP. The margin on this loan is set out in Part 2. In addition to this income, once Consilio has sufficient cash surpluses, profits from Consilio in the form of dividend payments will be made to the Council (business plan projection for 2021/22 is on target to achieve this). The new Business Plan for the company needs to be agreed by the Council later in the year.
- 1.22 The cashflow model allows for rental increases which will increase the margins on the development in future years, but the biggest risk is the level of voids. The 0.25% margin on the loan to Consilio is lower than originally intended, but this level has been proposed to allow for some element of void cashflow risk.
- 1.23 The following view has been received from legal colleagues: The report does mention the potential flexibility of using the private rental units for key worker housing in the future, should the need arise, but it needs to be recognised that this would compromise the rental income that could be achieved, which is key to subsidising the affordable housing provision. Any future consideration would of course be subject to a business case at the appropriate time.

Corporate implications

- 1.24 The risks and opportunities are covered in the report with the financial element covered in Part 2 report. This decision does not need an equality impact assessment or data protection impact assessment. The normal inclusive housing allocations process will be followed for the affordable flats and the relevant checks in place.

Consultation and communication

- 1.25 Not applicable. The local Councillors are aware of this scheme through previous reports. The local residents have been kept informed throughout this development. <https://www.southbucks.gov.uk/TatlingEndHousingProject> provides further details.

Next steps and review

- 1.26 The next steps are for the Council to finalise legal documents and transfer the development to Consilio as per the financial details within the Part 2 report before completion of the development in early August this year. It is estimated that the

private rented flats will all be let within 5 months and the affordable within 2 months through the Councils homes search process.

Background papers

- 1.27 The background papers are the previous reports that were considered by the former South Bucks District Council.

Your questions and views (for key decisions)

If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the Democratic Services team. This can be done by tel: 01296 382343 or email democracy@buckinghamshire.gov.uk.