

Report of Lorraine Wright

Report to Director of Environment and Housing

Date: 3 February 2015

Subject: Refurbishment and maintenance of 79 Oatland Gardens (former Right to Buy property purchased under the HCA Empty Homes Programme)

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Hyde Park and Woodhouse	<input checked="" type="checkbox"/> Yes
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: 10.4(3) Appendix number: 1 Appendix 1 to this report has been marked as confidential under Access to Information Procedure Rules 10.4 (3) on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) which, if disclosed to the public, would, or would be likely to prejudice the commercial interests of that person or of the Council.	<input checked="" type="checkbox"/> No

Summary of main issues

1. Under the 2014-15 HCA Empty Homes Programme, Leeds City Council has committed to:
 - a. buy 20 private properties which have been void for more than 6 months with a view to refurbishing them for letting as council housing; and
 - b. convert 2 empty community centres back into housing for letting as Council Housing.
2. Under the terms of the Grant Agreement with the HCA, the Council receives £17,500 towards the cost of purchasing and refurbishing each property. Both the purchase and the refurbishment of each dwelling has to complete by the end of the financial year 2014-15 to be eligible for the full grant funding.
3. In September 2014, the Director of Environment and Housing approved the purchase of 79 Oatland Gardens, Sheepscar, LS7 1SL, a long term empty property located in the Little London Regeneration Project area.
4. In order to complete the refurbishment of 79 Oatland Gardens by the end of the financial year, it is proposed to award a contract to Keepmoat, a sub-contractor on the

PFI contract, to refurbish and then repair and maintain the property until expiry of the defects liability period so that the full HCA grant can be accessed.

Recommendations

5. The Director of Environment and Housing is recommended to approve the waiver of Contracts Procedure Rules no 8.1 and 8.2 – Intermediate value procurements to award a contract to Keepmoat to refurbish and then repair and maintain 79 Oatland Gardens for a period of 12 months. The contract shall commence with immediate effect and will expire on 31 March 2016.
6. The Director of Environment and Housing is also recommended to note that should further properties be bought back in the future, paragraphs 3.1, 3.5 and 3.6 outline the factors that would be taken into consideration in deciding the best way forward.

1 Purpose of this report

- 1.1 To gain approval to waive Contracts Procedure Rules No 8.1 and 8.2 - Intermediate Value Procurements in order to procure Keepmoat to refurbish, repair and maintain 79 Oatland Gardens for a period of 12 months to cover the defects liability period.
- 1.2 The report sets out the rationale behind this course of action.

2 Background information

- 2.1 In June 2013 the HCA confirmed the allocation of £440k resources to Leeds City Council to deliver the 2014-15 HCA Empty Homes Programme of £2,253k. The project includes two main elements; firstly, to buy 20 private properties which have been void for more than 6 months with a view to refurbishing them for letting as council housing, and secondly, to convert 2 empty community centres back into housing for letting as Council Housing.
- 2.2 Under the terms of the Grant Agreement with the HCA, the Council receives £17,500 towards the cost of purchasing and refurbishing each property. £13,125 is claimed when the property is purchased and the remaining £4,375 is drawn down when the refurbishment is complete. Both the purchase and the refurbishment of each dwelling has to complete by the end of the financial year 2014-15 to be eligible for the full grant funding.
- 2.3 In September 2014, the Director of Environment and Housing approved the purchase of 79 Oatland Gardens, Sheepscar, LS7 1SL, a long term empty property. The dwelling is a 3 bedroom, traditional brick terraced house built in 1971 and has been empty since 30th September 2012.
- 2.4 The Council acquired the property on 10 November 2014. The property is to be refurbished to the HCA's Rehabilitation Standard which requires properties to achieve a minimum size and layout and a minimum level of sustainability. The

refurbishment would also ensure the property meets the Council's letting standard. On completion of the refurbishment, the property will be let as a secure tenancy on a social rent.

- 2.5 The property is in the Little London Regeneration Project area. At the time the decision was taken to purchase the property, officers were exploring options to include the property within the PFI (Private Finance Initiative) contract and bring the property up to the PFI standard. The PFI contractor, sc4L, was agreeable to exploring mechanisms for including the property in the PFI scheme and finalising costs.

3 Main issues

Reason for Contracts Procedure Rules Waiver

- 3.1 Following the purchase of the property, discussions with the PFI contractor established that the cost of adding a single property to the PFI scheme would be substantial as they only retain enough capital, raised through the issue of wrapped bonds, to undertake the actual project works. In order to raise additional capital to undertake the refurbishment they would be faced with a further bond issue which would incur significant fees such as rating agency (these were c£250k each on the first bond issue), legal fees, modelling costs and financial advisor fees. In addition, the timescales involved in gaining the necessary legal, financial and technical advice and approvals rendered it extremely unlikely the process would be complete by the end of the financial year.
- 3.2 Keepmoat is a sub-contractor on the PFI scheme and is responsible for refurbishing as well providing a repair and maintenance and lifecycle service to the properties for the lifetime of the contract, until 2023. As such, there are a number of service benefits from procuring Keepmoat to refurbish 79 Oatland Gardens. These are outlined below:
- Keepmoat is very familiar with the detail of the PFI specification and works to the property shall be undertaken to the same standards as defined in the Project Agreement (PA).
 - Keepmoat is currently working in the locality and has an established supply chain to deliver the work;
 - Keepmoat has the capacity to take this work on, can mobilise quickly and can commit to complete internal refurbishment by the end of the financial year so that the HCA grant can be claimed; and
 - Since Service Commencement, Keepmoat have undertaken the refurbishment works to programme, without delay and to the required certification standards. There have been no major concerns in respect of workmanship or quality with the refurbishment works undertaken to date.
- 3.3 In order to meet the PFI standard, the following works have been identified as being required; roof covering (including fire stopping & loft insulation) & rainwater goods, windows, entrance doors and frames, entrance canopy, improved wall

insulation, heating system, electrical rewire, kitchen, bathroom suite; and replacement boundary treatment and new entrance path.

- 3.4 Keepmoat has provided a cost to complete the refurbishment based on the scope outlined in paragraph 3.3 and an annual repair and maintenance cost. The details are outlined in the confidential appendix attached. Keepmoat can commit to completing the internal refurbishment by the end of this financial year and would undertake external works in line with the PFI programme in 2015-16, currently scheduled for winter 2015. This approach would minimise disruption to adjoining residents and costs.
- 3.5 It is proposed that a contract be awarded to Keepmoat to refurbish and then repair and maintain 79 Oatland Gardens for an initial period of 12 months to cover the defects liability period. This approach will enable the remaining HCA grant funding to be accessed and will allow sufficient time to consider a more permanent future arrangement. The PFI contractor has indicated that adding the property to the PFI contract once the capital works have been completed and the defects liability has expired would not involve the same obstacles as outlined in paragraph 3.1 in terms of accessing capital. As such, further discussions will be entered into in order to formally agree arrangements beyond 2015-16 for the repair, maintenance and lifecycle of 79 Oatland Gardens.
- 3.6 Further, given that the council is due to embark on a programme to acquire and refurbish 100 long term empty properties under the 2015-18 HCA programme, it is possible that in the coming years, additional properties could be acquired in the PFI area. In that event, officers would look to add a number of properties as a package to the PFI contract to avoid the issues outlined in paragraph 3.1.
- 3.7 A number of alternative procurement routes have been considered. These are outlined below and addressed in more detail in paragraphs 3.8 to 3.10:
- Internal Service Provider;
 - External Framework; and
 - Competitive Tender.
- 3.8 Internal Service Provider - in line with CPR 3.1.4 the use of an internal service provider (ISP) has been considered. This would involve the use of Mears, Civic Enterprise Leeds (CEL) or Housing Leeds Construction Services. This route would require officers to translate the PFI project documentation into a technical specification that could be priced. Whilst the drafting of a specification could be completed within a week, the internal providers would then need time to price the work. Given they do not have prior knowledge or expertise of the PFI contract / standard and in light of the tight timeframe to complete the work and claim the grant, this option has been ruled out.
- 3.9 External Framework – the use of an external framework such as Efficiency North, Fusion 21, YORbuild and Northern Housing Consortium has been considered. This route would involve drawing up a specification, tender documentation, pricing mechanism and evaluation methodology which is expected to take 2-4 weeks. As

such, this option has been ruled out due to requirement to complete the work and claim the grant by the end of the financial year.

- 3.10 Competitive Tender – the use of competitive procurement or constructionline to source contractors has also been considered. This route would also require tender documents being drawn up and therefore has been ruled out on the basis that the procurement would take a minimum of 4-6 weeks.

Consequences if the proposed action is not approved

- 3.11 If the request to waive Contracts Procedure Rules No 8.1 and 8.2 - Intermediate Value Procurements is not approved, it will be impossible to complete the refurbishment of 79 Oatland Gardens before the end of this financial year. As a result, the council will be unable to access the second tranche of grant funding (£4,375) from the HCA. Furthermore, failure to claim the grant funding could result in reputational damage to the Council with the HCA and CLG (Communities for Local Government).

Advertising

- 3.12 No advertising has been carried out. Given the requirement to complete the work and claim the grant by the end of the financial year, there is insufficient time to undertake a competitive tendering process.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.3 Consultation has taken place with colleagues in the Procurement Unit, Property and Contracts and Strategic Housing in developing this report.

4.2 Equality and Diversity / Cohesion and Integration.

- 4.2.1 An equality, diversity cohesion and integration screening exercise has been carried out. This has confirmed that equality, diversity, cohesion and integration considerations have been effectively considered in relation to this proposal and that a full impact assessment was not required.

4.3 Council policies and City Priorities

- 4.3.1 The purchase of the properties to relet as affordable housing supports the City Priority 'Best City to Live' to increase the number of long term empty properties brought back into use.

4.4 Resources and value for money

- 4.4.1 A Value for Money Assessment will be completed taking into account the purchase amount and refurbishment cost.

- 4.4.2 If the recommendation is not approved, it will be impossible to complete the refurbishment of 79 Oatland Gardens before the end of this financial year. As a

result, the council will be unable to access the second tranche of grant funding (£4,375) from the HCA.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This report represents an administrative decision and is not subject to call in.
- 4.5.2 The information contained in the Appendix attached to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in respect of certain companies and charities.
- 4.5.3 Awarding a contract directly to Keepmoat in this way could leave the Council open to a potential claim from other providers, to whom this contract could be of interest, that it has not been wholly transparent. In giving the work to this provider without competition there is a risk of challenge from other potential providers who have not been given the chance to tender for this opportunity.
- 4.5.4 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures, resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration however such investigations are by their nature more subjective than legal proceedings.
- 4.5.5 Although there is no overriding legal obstacle preventing the waiver of CPR 8, the above comments should be noted. In making their final decision, the Director of Environment & Housing should be satisfied that the course of action chosen represents Best Value for the Council.

4.6 Risk Management

- 4.6.1 If the recommendation is not approved, it will be impossible to complete the refurbishment of 79 Oatland Gardens before the end of this financial year. As a result, the council will be unable to access the second tranche of grant funding (£4,375) from the HCA. Furthermore, failure to claim the grant funding could result in reputational damage to the Council with the HCA and CLG (Communities for Local Government).

5 Conclusions

- 5.1 Under the terms of the Grant Agreement with HCA, the Council will draw down £4,375 HCA funding on completion of the refurbishment so long as the works are completed by the end of the financial year 2014-15.
- 5.2 In order to complete the refurbishment works in this timeframe and be eligible for the remainder of the HCA grant, it is proposed to award a contract to Keepmoat to refurbish and then repair and maintain the property for a period of 12 months to cover the defects liability period.

- 5.3 Keepmoat is a sub-contractor on the PFI scheme and as a result, there are a number of service benefits from procuring Keepmoat to refurbish 79 Oatland Gardens:
- Familiarity with the detail of the PFI specification;
 - Workforce in the locality and an established supply chain; and
 - Ability to mobilise quickly, capacity to take this work on and complete the internal refurbishment by the end of the financial year.

6 Recommendations

- 6.1 The Director of Environment and Housing is recommended to approve the waiver of Contracts Procedure Rules no 8.1 and 8.2 – Intermediate value procurements to award a contract to Keepmoat to refurbish and then repair and maintain 79 Oatland Gardens for a period of 12 months. The contract shall commence with immediate effect and will expire on 31 March 2016.
- 6.2 The Director of Environment and Housing is also recommended to note that should further properties be bought back in the future, paragraphs 3.1, 3.5 and 3.6 outline the factors that would be taken into consideration in deciding the best way forward.

7 Background documents¹

- 7.1 Report to the Director of Environment and Housing regarding the purchase of a former right to buy property at 79 Oatland Gardens as part of the HCA Empty Homes Programme – 16 September 2014.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.