

Report of: Housing Growth Team and Land and Property

Report to: Director of City Development

Date: 29/07/2015

Subject: Waiver of Contract Procedure Rules 9.1 and 9.2 for the purchase of 8 dwellings plus access road and land at the Former Lord Cardigan PH development site as part of the Council Housing Growth Programme

Are specific electoral wards affected? If relevant, name(s) of ward(s):	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for call-In?	<input type="checkbox"/> Yes	<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	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

- 1 The Leeds' Core Strategy has set a target to build 70,000 homes between 2012 and 2028. To achieve this high priority breakthrough project for the Council, there are a number of key programmes in place in order to meet these challenging objectives. One of the initiatives is to increase council housing by purchasing housing units off the shelf or off plan from private development sites across the City, especially in areas where the Council is low in housing stock and demand exceeds supply.
- 2 In September 2012, the Executive Board endorsed the development of an investment programme to deliver new council housing in the city by various means. Through a series of subsequent reports the latest being 15th July 2015, the Executive Board approved the opportunity for the Council to enter into a programme of acquisitions which included the purchasing of privately developed housing units. These opportunities are an effective way of increasing Council House stock especially in areas where demand exceeds available supply. Acquiring properties off plan allows units to be delivered quickly and represent value for money particularly as there has been the opportunity to negotiate on price.
- 3 The detailed development of the investment programme was delegated by the Executive Board to the Directors of City Development (in respect of land use) and Environment and Housing (in respect of programme, scheme details and cost).
- 4 In late March 2015, the council approached RDF Leeds Ltd (landowner/house builder) to establish the possibility of acquiring the development which has full planning permission for 8 residential units being built on the former Lord Cardigan Public House site, which is now cleared and vacant.

- 5 The aims within this report are to seek approval to waive Contract Procedure Rules 9.1 and 9.2 high value procurements. This waiver report should be read in conjunction with the related DDN report authorising the acquisition of the former Lord Cardigan Public House site.

Recommendations

1. The Director of City Development is recommended to approve the waiver of the following:

Contracts Procedure Rule: 9.1 (High Value Procurements)

And allow the Council to enter into a purchase agreement for the land and 8 no units being constructed by the current landowner RDF Leeds Ltd on the former Lord Cardigan Pub site.

1 Purpose of this report

- 1.1 The purpose of this report is to seek approval to waive Contract Procedure Rules 9.1 and 9.2 to enter into a development agreement with the current landowner, RDF Leeds (Developer), relating to the former Lord Cardigan Public House site upon which 8 no housing units are to be constructed. The development agreement will require the Developer to construct the housing units to the Leeds Standard, in return for which the Council will purchase all 8 units at the agreed cost. Further financial information relating to costs per unit and total scheme costs including payment schedules can be found in the confidential section of this report (Appendix 1.)

2 Background information

- 2.1 The Leeds' Core Strategy has set a target to build 70,000 homes between 2012 and 2028. To achieve this high priority breakthrough project for the Council, there are a number of key programmes in place in order to meet these challenging objectives. One of the initiatives is to increase council housing by purchasing housing units off the shelf or off plan from private development sites across the City, especially in areas where the Council is low in housing stock and demand exceeds supply.
- 2.2 In September 2012, the Executive Board endorsed the development of an investment programme to deliver new council housing in the city by various means. Through a series of subsequent reports the latest being 15th July 2015, the Executive Board approved the opportunity for the Council to enter into a programme of acquisitions which included the purchasing of privately developed housing units. These opportunities are an effective way of increasing Council House stock especially in areas where demand exceeds available supply. Acquiring properties off plan allows units to be delivered quickly and represent value for money particularly as there has been the opportunity to negotiate on price.
- 2.3 The derelict former Lord Cardigan public house was demolished as part of Leeds City Council's Derelict and Nuisance Property Programmed in 2012, since then the cleared site has been left dormant.

2.4 Acquisition of the 8 properties

- 2.5 The 0.48 acre site was granted planning permission (ref: 15/00155/FU) on 09 March 2015 for 8 no. 3 bedroomed mews type properties with the intention to sell on the open market.

2.6 In accordance with the investment programme, the council approached the Developer to establish the possibility of the 8 residential units being constructed to the Leeds Standard and acquiring the whole development.

3 Main issues

3.1 Reason for contracts procedure rules waiver

3.1.1 The reasons for this waiver is that the council has sought to vary the specification of the RDF design to include elements of the, Leeds Standard, and therefore there is the very slight possibility that it could be argued the council has influenced the development to such a degree that it should be treated as a contract subject to the procurement rules, rather than a land transaction, which would not be caught by those rules. In the circumstances, in order to be as open and transparent as possible it is considered that a waiver of Contract Procedure Rules should be obtained. The main variations to the specification are as follows:

- Conversion from 3 bed to 2 bed to allow for 2 sizeable bedrooms (flexibility to reconvert designed in)
- Removal of en-suite so main bathroom has external window/ventilation
- Mechanical Ventilation with Heat Recovery System
- Higher Spec (energy efficient) Boiler
- Triple Glazing (rather than double) with UPVC frames
- 8 x 6 Garden Shed on Hard Standing (External Storage)
- Garden turfed (rather than seeded)
- Increase in Block work, insulation, Cavity lintels, cavity closers, wall ties and foundation blocks to meet U Value request

3.1.2 This site was also chosen to meet the demand data profile of the Bramley area as taken from the Leeds Homes Register - particularly 2 bedroom units, lack of council owned land opportunities for this location, the speed of delivery in bringing the dwellings in to council ownership and the opportunity to negotiate the specification to meet the council's requirements.

3.1.3 In addition, the Council was able to negotiate a discounted rate per unit due to this being a bulk purchase of all 8 properties.

3.2 Consequences if the proposed action is not approved

3.2.1 If the waiver to purchase these properties is not approved the opportunity to deliver good quality new council housing, which meets the affordable housing targets set out in the Core Strategy (see 4.3 below), in an area of high demand where the council lacks land opportunities, will be missed.

3.3 Advertising

3.3.1 There has been no advertising undertaken to promote the opportunity for the council to enter into off shelf purchases of this type. However, LCC has explored the possibility of purchasing units from other current developments identified from the Strategic Housing Land Assessment with a range of developers. Unfortunately, the council has been unsuccessful in purchasing properties from other sites as the general view from developers is that whilst demand for private sales is high there is a reluctance to increase the affordable housing on the site other than the statutory section 106 agreements.

4 Corporate considerations

4.1 Consultation and engagement

4.1.1 In May 2015, the then Deputy Leader and Executive Member for Neighbourhoods, Planning and Support Services and the Bramley & Stanningley Ward Members were briefed on these proposals. Ward Members were very supportive of proposals for the acquisition of the dwellings.

4.2 Equality and diversity / cohesion and integration

4.2.1 An Equality Impact Assessment (EIA) screening exercise was carried out and this demonstrated that the proposal will assist in advancing equality by increasing much needed affordable housing in the Bramley area. The EIA screening document is attached (Appendix 2).

4.3 Council policies and city priorities

4.3.1 Housing Growth is one of the Council's key priorities. In order to meet the challenges of a growing population and ensuring the right infrastructure is in place to keep pace with it, 70,000 new homes will be needed in Leeds between 2012 and 2028.

4.3.2 The Housing Growth and Jobs initiative is one of the Council's Breakthrough Projects and the Council Housing growth programme, which forms part of it, was approved by Executive Board in July 2013 and in an updated report dated March 2015. Its aims are to deliver a programme of £134m investment in new council stock using Housing Revenue Account funding

4.3.3 The site locations within the programme are determined by evidence of demand which is drawn from an analysis of the waiting list supplemented by Housing Needs Assessments. The programme provides opportunities to meet a range of corporate objectives including supporting housing growth through assisting stalled sites and addressing derelict and nuisance sites.

4.3.4 The Council also aims to set a high standard for homes in Leeds, to help create safer, stronger and healthier communities. The newly implemented Leeds Standard will make the best use of space, energy efficiency and design quality. Key elements of the Leeds Standard have been incorporated (where appropriate) into these proposals, especially in terms of energy efficiency.

4.4 Resources and value for money

4.4.1 The opportunity to acquire housing developments of this type is an effective way of increasing Council House stock in areas where demand exceeds the available supply. It also allows units to be delivered quickly, to the Leeds Standard and it represents value for money, particularly as there has been the opportunity to negotiate on price.

4.4.3 Funding

4.4.4 Funding would come from a mix of the Housing Revenue Account Right to Buy Replacement programme and also from the Council's accumulated commuted sums.

4.5 Legal implications, access to information and call in

4.5.1 Under Part 3 Section 3E Paragraph 2(a) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of Executive Board in relation to the management of land (including valuation, acquisition, appropriation, disposal and any other dealings with land or any interest in land) and Asset Management.

4.5.2 The proposal constitutes a significant operational decision and is therefore not subject to call in.

- 4.5.3 It is proposed that the Council enter into a development agreement with the landowner, to ensure that the properties are constructed within the agreed timescale and to the required specification. A development agreement may be subject to the public procurement rules if there are works or works required or specified by a contracting authority, there is an enforcement obligation (in writing) on a contractor to carry out the work or works, and there is some pecuniary interest for carrying out the work. There is the very slight possibility that it could be argued the council has influenced the development to such a degree that it should be treated as a contract subject to the procurement rules, rather than a land transaction, which would not be caught by those rules. However, the Developer has the exclusive right to carry out these works, being the owner of the land. Thus, the Council can only secure the units it requires by entering into an agreement with RDF Leeds Ltd. It is considered that this is sufficient justification for entering into a direct agreement with RDF Leeds Ltd to purchase the units.
- 4.5.4 Although there is no overriding legal obstacle preventing the waiver of CPR 9.1 and 9.2, the above comments should be noted. In making a final decision, the Director of City Development/Environment and Housing should be satisfied that the course of action proposed represents best value for money to the council.

4.5.5 **Public Interest paragraph**

The information contained in 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. It is considered that since this information was obtained through one to one negotiations for the disposal of the property/land then it is not in the public interest to disclose this information at this point in time. Also it is considered that the release of such information would or would be likely to prejudice the Council's commercial interests in relation to other similar transactions in that prospective purchasers of other similar properties would have access to information about the nature and level of consideration which may prove acceptable to the Council. It is considered that whilst there may be a public interest in disclosure, much of this information will be publicly available from the Land Registry following completion of this transaction and consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. It is therefore considered that this element of the report should be treated as exempt under Rule 10.4.3 of the Access to Information

4.6 **Risk management**

- 4.6.1 Risks will be managed via the Council Housing Growth Programme. A risk register for the programme is already established. A risk action log specific to this acquisition will be produced to monitor delivery and manage the project through the construction phases up until the completion of the contract (12 months following Practical Completion). Any high or very high risks will be reported to the Housing Growth Programme Board.

5 **Conclusions**

- 5.1 Purchasing off shelf units from RDF will provide a relatively quick value for money delivery route for the Council Housing Growth Programme as planning permission is already in place with the developer ready to commence work on site in July 2015.

6 **Recommendations**

- 6.1 The Director of City Development is recommended to approve the waiver of the following:

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And allow the Council to enter into a purchase agreement for the land and 8 no units being constructed by the current landowner RDF Leeds Ltd on the former Lord Cardigan Pub site.

6.2 Further financial information relating to costs per unit and total scheme costs including payment schedules can be found in the confidential section of this report (Appendix 1.)

7 Background documents

None