

Report of the Head of Regeneration

Report to Director of Resources and Housing

Date: January 2019

Subject: Right to Buy Replacement Programme: Sissons Avenue / Acre Road, Middleton Leeds

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Middleton	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" 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: one	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Summary of main issues

1. In response to the Ministry of Housing, Community and Local Government (MHCLG) "Reinvigorating Right to Buy and One for One Replacement" initiative the Council has established its Right to Buy Replacement Programme (RtB) which offers grant funding to Registered Providers and Third Sector organisations to support the delivery of additional affordable housing for the city.
2. To date, RtB funding has been used on a variety of Council, Registered Provider and Third Sector schemes. £18m is committed toward the delivery of 474 new Affordable Housing units, with 250 start on sites already taken place.
3. On 19th September 2018, Executive Board approved a report titled 'Right to Buy Replacement Funding: Investment to support the delivery of new supply Affordable Housing' which approved RTB grant funding to Leeds Federated Housing Association (LFHA).
4. The Executive Board agreed to delegate authority to the Director of Resources and Housing to negotiate detailed terms and approve minor amendments to Right to Buy Replacement Programme grant funding allocations (within delegated authority powers).

5. Following finalisation of build costs, the scheme costs have increased and therefore Leeds Federated Housing Association are requesting some additional funding to cover the cost increase. Details of these are included in the confidential appendix 1.
6. Due to the level of grant associated with this development the Council intends to take a charge over the land for a 10 year period to secure the clawback provisions of the grant agreement. If after the 10 year period LFHA can demonstrate that they have adhered to the terms of the grant agreement relating to subsequent Nomination LFHA can request the charge be removed.

Recommendations

1. It is recommended that the Director of Resources and Housing approves and authorises the release of additional funding to Leeds Federated Housing Association to facilitate the development of 18 new Affordable Housing units at Sissons Avenue / Acre Road, Middleton.
2. Due to the level of grant associated with this development the Director of Resources and Housing agrees to take a charge over the land for a 10 year period to secure the clawback provisions of the grant agreement. If after the 10 year period LFHA can demonstrate that they have adhered to the terms of the grant agreement relating to subsequent Nomination LFHA can request the charge be lifted.

Purpose of this report

- 1.1 To seek approval from the Director of Resources and Housing to authorise the release of additional funding to Leeds Federated Housing Association to facilitate the development of 18 new Affordable Housing units at Sissons Avenue / Acre Road, Middleton
- 1.2 Due to the level of grant associated with this development the Director of Resources and Housing agrees to take a charge over the land for a 10 year period to secure the clawback provisions of the grant agreement. If after the 10 year period LFHA can demonstrate that they have adhered to the terms of the grant agreement relating to subsequent Nomination LFHA can request the charge be removed.

2 Background information

- 2.1 In September 2018, Executive Board approved a proposal to use a proportion of the capital receipts generated by Right to Buy (RtB) sales to fund a programme of replacement social housing as permitted by the Ministry of Housing, Community and Local Government (MHCLG) "Reinvigorating Right to Buy and One for One Replacement" initiative.
- 2.2 MHCLGs funding regulations stipulate that the receipts may only be used to fund a maximum of 30% of total scheme costs. Providers are required to lever in the remaining scheme costs via their own resources. The funds must be spent within a three year timescale of their receipt or returned to MHCLG.
- 2.3 The Director of Resources and Housing has previously approved the use of over £18m worth of RTB funding to support the development of Affordable Housing across the city.
- 2.4 LFHA are registered as an Affordable Housing provider with Homes England as well as being a member of the Leeds Affordable Housing Framework.

3 Main issues

- 3.1 A planning application has been submitted by LFHA to develop 18 Affordable Housing units on land at Sissons Avenue / Acre Road, Middleton, which is currently a vacant brownfield site.
- 3.2 Following finalisation of build costs, the scheme costs have increased and therefore Leeds Federated Housing Association are requesting some additional funding to cover the increase.
- 3.3 Due to the level of grant associated with this development the Council intends to take a charge over the land for a 10 year period to secure the clawback provisions of the grant agreement. If after the 10 year period LFHA can demonstrate that they have adhered to the terms of the grant agreement relating to subsequent Nomination LFHA can request the charge be removed.

- 3.4 As part of the terms for disposal and allocation of RtB funding, the Council will receive 100% nomination rights on first allocation and 75% nomination rights on subsequent relets of the properties, which will be let at Affordable Rent levels.
- 3.5 LFHA will be required to sign a Legal Agreement before any grant is paid to and will also be required to submit quarterly monitoring reports to ensure that delivery timescales and quality targets are being met. Should the agreed timescales or quality targets not be met the council has the options within the Legal Agreement to clawback any grant already issued.
- 3.6 The Council will pay 90% of the grant at Start on Site and retain 10% so that at the end of the project, council officers can review the scheme, ensure it met the principles agreed and that the scheme demonstrates value for money.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 As part of the September 2018 Executive Board report Executive Members for Communities and Regeneration, Transport and Planning were consulted and are supportive of the proposals.
- 4.1.2 Local Ward Members were also consulted at the time and were supportive of the proposals.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The Equality and Diversity, Cohesion and Integration screening document was completed as part of the September 2018 Executive Board to ensure due regard to equality issues. This is attached for reference at Appendix two.
- 4.2.2 The recommendations in this report have a number of positive equality outcomes. The primary focus is to provide additional Affordable Housing which will have a beneficial impact for socio-economic equality groups.

4.3 Council policies and Best Council Plan

- 4.3.1 The delivery of new supply Affordable Housing in Leeds underpins the Council ambition for Leeds of a Strong Economy and a Compassionate City. The proposals present an opportunity to link into the 'City Centre Vision - Our Spaces Strategy' which sets out the vision and ambition for the development of public realm and join up work more effectively as part of the city's compassionate response to people in need.
- 4.3.2 The proposals outlined within the report supports the delivery of the 2018/19 – 2020/21 Best Council Plan priority of Housing: Housing of the right quality, type, tenure and affordability in the right places.
- 4.3.4 The development of new supply Affordable Housing funding through the Right to Buy Replacement Programme contributes towards the achievement of the housing targets for the city, as outlined within the Core Strategy. At present, the Affordable Housing target stands at 1,158 units per annum. As part of the Cores Strategy

Selective Review, once recommendations have been adopted, the target will increase to 1,230 per annum.

- 4.3.5 Furthermore, the additional units directly contribute towards the Leeds Housing Strategy housing priority of Affordable Housing Growth.

4.4 Resources and value for money

- 4.4.1 As LFHA are required to provide the majority of the development costs (see points 2.1 and 2.2) in line with MHCLG funding regulations this programme will maximise the impact of the available resources and levers in significant investment to the city.
- 4.4.2 LFHA has confirmed that they have sufficient capacity to obtain the additional resources required to make the scheme successful via loans and their own reserves.
- 4.4.3 However, should they not conform to the conditions agreed there is the potential within the legal agreement to enforce the repayment of the grant.
- 4.4.4 Additional New Homes Bonus payments will be generated through the construction of the new supply Affordable Housing (NHB uplift) housing which the Right to Buy Replacement Programme will be supporting.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The information contained in the confidential appendix 1 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. It is considered that since this information was obtained through Expressions of Interest 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 therefore considered that this element of the report should be treated as exempt under Access to Information Procedure Rule 10.4 (3).
- 4.5.2 Funding for the provision of social housing falls within the Service of General Economic Interest (SGEI) exemption from the State Aid regulations and is not unlawful state aid. The terms of the grant agreement will ensure that the funding meets the criteria for an SGEI.
- 4.5.3 The recommendations in this report are not considered to be a Key Decision and therefore is not subject to Call In.

5. Risk Management

- 5.1 It is considered that the recommendations in this report will have few adverse risks to the Council as the scheme that will benefit from the investment of Right to Buy Replacement Programme funding is compliant with the criteria for spend.
- 5.2 If this report is approved, LFHA will be obliged to sign a legal agreement with the Council before any grant funding is released.
- 5.3 The provisions of the grant agreement do not apply to a mortgagee in possession so in the event that LFHA default on any secured lending the Council may not be able to recover the full grant.
- 5.4 The grant agreement also allows for LFHA to request the legal charge referred to at 5.8 below is postponed to allow for any subsequent secured lending to take priority over the LCC charge. In the event of a default if the value of the property is less than the first secured lending LCC may be unable to make a full recovery.
- 5.5 Progress monitoring will take place on a quarterly basis against agreed milestones. Ultimately, if performance is unsatisfactory or does not meet the agreed milestones, the legal agreement gives the Council the opportunity to enforce the refund of the grant funding.
- 5.6 As part of the grant agreement a 10% grant retention will be held until the scheme is completed and officers have reviewed the scheme in detail to protect the council's interest.
- 5.7 Should the council not utilise its RTB funds within a three year timescale of their receipt MHCLG funding regulations stipulate that the funds must be returned to central government. Therefore, the additional investment route helps to minimise this risk plus shares risk by drawing in additional funding from other providers
- 5.8 Due to the level of grant associated with this development the Council intends to take a charge over the land for a 10 year period to secure the clawback provisions of the grant agreement. If after the 10 year period LFHA can demonstrate that they have adhered to the terms of the grant agreement relating to subsequent Nomination LFHA can request the charge be removed.
- 5.9 The legal charge does not give 100% protection to the Right to Buy Funding Grant. Leeds City Council are agreeing to provisions under which LFHA can request the council agree to take second priority to another lender i.e. Bank. If the Council do agree to postpone priority there is no guarantee there would be sufficient equity in the property to repay the grant in the event that the property was repossessed by the first lender. The Council would consider agreeing to the postponement as our legal charge could prevent LFHA obtaining additional finance in the commercial market.
- 5.10 Also, the terms of the grant do not apply to mortgagees in possession so, if the property were to be repossessed by the lender there is no guarantee there would be sufficient equity in the property to repay the grant.

6. Conclusions

- 6.1 Scheme proposals have been submitted by LFHA requesting additional grant funding from the Council's Right to Buy Replacement Programme funding to facilitate the development of 18 new Affordable Housing units at Sissons Avenue / Acre Road, Middleton.
- 6.2 Due to the level of grant associated with this development the Council intends to seek to take a charge over the land for a 10 year period to secure the clawback provisions of the grant agreement. If after the 10 year period LFHA can demonstrate that they have adhered to the terms of the grant agreement relating to subsequent Nomination LFHA can request the charge be lifted.
- 6.3 This scheme will help the council to increase the number of Affordable Homes within the city as well as helping to meet a number of council priorities set out in 4.3 of this report.
- 6.4 The establishment of the Right to Buy Replacement Programme is a creative approach to further support the provision of new supply affordable housing. The availability of this funding supports affordable housing providers with maximising their resources, brings additional resources to the delivery of new homes through the providers' contributions and assists with sustainability.

7. Recommendations

- 7.1 It is recommended that that the Director of Resources and Housing approves and authorises the release of additional funding to Leeds Federated Housing Association to facilitate the development of 18 new Affordable Housing units at Sissons Avenue / Acre Road, Middleton.
- 7.2 Due to the level of grant associated with this development the Director of Resources and Housing agrees to take a charge over the land for a 10 year period to secure the clawback provisions of the grant agreement. If after the 10 year period LFHA can demonstrate that they have adhered to the terms of the grant agreement relating to subsequent Nomination LFHA can request the charge be lifted.

8. Background documents¹

- 8.1 Not applicable

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.