

**Report of the Director of City Development**

**Report to Executive Board**

**Date: 17 April 2019**

**Subject: Funding Arrangements for Delivery of Affordable and Community Housing at Leopold Street**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Chapel Allerton	<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 provision of new housing is a priority for the Council and is outlined within the Best Council Plan; housing of the right quality, type, tenure and affordability in the right places, to meet the needs of all communities across the city, underpinning the Leeds best city ambition of a strong economy and compassionate city as clearly set out in the Leeds Inclusive Growth Strategy. Furthermore, there is a requirement to ensure that housing growth is delivered to meet the needs of the city, which is articulated in the Core Strategy.
2. In September 2016, the Council entered into an exclusivity agreement with Chapeltown Co-Housing (ChaCo) for provisional terms to be negotiated for the acquisition of the vacant Council-owned site at Leopold Street to enable a community housing development, alongside the sale and development of adjoining land to Unity Housing Association for affordable housing for older people. In March 2018 the Director of City Development approved the terms of disposal for the site, with disposal subsequently completed in March 2019.

3. As a brownfield site with significant remediation challenges an application was made by Leeds City Council to the Homes England's Housing Infrastructure Marginal Viability Fund (HIF MV) to obtain grant funding for the necessary remediation works, which would support viability of the development. In February 2018, indicative grant approval was received subject to a clarification and due diligence period. Following this review period, the Council received confirmation from Homes England (HE) that the bid had been successful and work commenced to put a grant funding agreement (GFA) in place.
4. Following extensive negotiations, a GFA was signed by the Council and HE in February 2019, under delegated powers of the Director of Resources & Housing for £990,000 HIF MV to be utilised on groundworks, infrastructure and remediation to facilitate the delivery of the housing. It was also agreed that the Council would enter into a tripartite agreement with ChaCo and Unity HA to facilitate the transfer of the grant between the parties as the development progressed..
5. The timescale to reach agreement on the grant and related legal provisions has extended significantly beyond the original programme for the confirmation of finances and start on site for the housing development. In March 2019, a request was made to HE by ChaCo for an additional funding amount of £345k to cover the inflationary impact on the construction contract due to the 12 month delay. This has been agreed and the total HIF MV grant from HE to the scheme is now £1,334,460. A Deed of Variation has been prepared for the GFA between HE and LCC to reflect this change.
6. During the course of this continued negotiation as the parties responded to the changing circumstances, ChaCo's core financing requirements have also changed. A request has been made to the Council by ChaCo for a loan to fill this gap in short-term development finance, which would be subject to the interest at an appropriate rate to ensure State Aid compliance. The Exempt Appendix to this report sets out the issues for consideration by Executive Board in responding to this loan request.

## **Recommendations**

Executive Board is recommended to:

1. Agree that the Director of City Development enters into a Deed of Variation to the existing HIF grant agreement with Homes England to a revised amount of £1,334,460 as set out at paragraph 3.9.
2. Agree that the Director of City Development enters into a Deed of Variation to the Grant Funding Agreement with ChaCo and Unity to a revised amount of £1,334,460 and removes the requirement for recoverability of grant as set out at paragraph 3.10.
3. Agree the recommendations set out in the Exempt Appendix 1 in respect of ChaCo's request for a phased draw-down loan from the Council to meet short term development financing requirements.

4. Exempt the resolutions arising from this report from the 'Call-In' process, on the grounds of urgency, as detailed within paragraph 4.5.3 report.

## **1 Purpose of this report**

- 1.1 The purpose of this report is to set out and seek appropriate approvals for the Council's enabling role in the funding and delivery of an innovative affordable and community housing scheme at Leopold Street, Chapeltown.

## **2 Background information**

- 2.1 In July 2017, Local Authorities were invited to bid for funding under the Government's £5bn Housing Infrastructure Fund (HIF), designed to unlock up to 200,000 new homes in areas of high demand. Leeds put forward a bid under the HIF Marginal Viability Fund (MVF) programme for funding to deliver new infrastructure in order to unlock new homes. HIF MVF is essentially gap funding to provide the final or missing pieces of infrastructure that cannot be delivered for reasons of viability, in order to unlock stalled housing sites or deliver new housing sites at pace.
- 2.2 In February 2018, it was announced that following a highly competitive, and heavily oversubscribed bidding process, Leeds had been awarded HIF MV for two housing sites in the district; at East of Otley £6.3m was awarded to enable delivery of a relief road that will unlock development of 550 homes on an allocated site and £990,000 was awarded for remediation and infrastructure required at Leopold Street in Chapeltown to support the delivery of a mixed tenure affordable and community led housing project. There is a separate report regarding East of Otley on the agenda for this meeting of Executive Board.

## **3 Main Issues**

- 3.1 Chapeltown Co-housing (ChaCo) was established in 2010 and is at the forefront of the city's work to bring forward innovative new forms of housing delivery, with an aspiration to develop a co-housing scheme in the Chapeltown area. The group has had a long-expressed interest in the vacant Council owned Leopold Street site bounded by Roundhay Road and Barrack Road. The proposals for the cohousing project have received wide-spread local support.
- 3.2 The site was declared surplus by the Council in 2010 and has been brought forward to meet the need for both new housing and new school places. The northern part of the site has been sold to the Dixons Trinity Academy and is under development for the delivery of a new through primary and secondary school, funded through the government's Education and Skills Funding Agency. The southern part of the site, amounting to c1ha was identified as having potential for housing development - ChaCo established a partnership working arrangement with Unity Housing Association through which proposals for community housing and affordable housing for older people were worked

up and in September 2016, the Council entered into an exclusivity agreement in order for provisional terms to be negotiated for its disposal.

- 3.3 During this period, ChaCo and Unity developed the scheme proposals and submitted a joint planning application, which was approved in September 2017 to provide:
- 29 x co-housing dwellings and a common house (ChaCo)
  - 30 x Affordable Rented apartments for residents over the age of 55 (Unity)
  - 4 x self-build plots (ChaCo)
- 3.4 38 units, equivalent to 60% of the development, will be Planning Policy compliant Affordable Housing with ChaCo providing 8 x Shared Ownership units and Unity delivering 30 Affordable Rented units. Both organisations have been successful in securing funding from Homes England's Shared Ownership & Affordable Housing Programme (SOAHP) to support the development costs of these units. The scheme will be delivered to a high quality design, in accordance with national space standards for new homes and across the development there will be CO2 savings in excess of planning policy requirements.
- 3.5 Site investigations showed that a significant amount of remediation and infrastructure work would be required to enable the site to be development ready. The HIF MV was an ideal opportunity not only to secure the necessary funding on behalf of the two organisations but to meet other council objectives in terms of the supply of affordable housing and the wider regeneration of this area.
- 3.6 Following Homes England's review period, the Council received confirmation in February 2018 that the bid had been successful and work commenced to put a grant funding agreement (GFA) in place subject to a clarification and due diligence period advised by HE. In March 2018 the Director of City Development approved the conditional sale terms for disposal of the site, to be sold through two transactions; one to ChaCo to bring forward the cohousing element, the other to Unity Housing Association to bring forward the affordable element. The site disposal was completed in March 2019.
- 3.7 As the HIF MV programme required bids from Local Authorities, the funding from HE to the Council has required a related tripartite agreement to be entered into between the Council, Unity and ChaCo, to allow for the funds to be passed on to the project in accordance with grant conditions and monitoring requirements that will enable reporting back to HE.
- 3.8 Although not an obligation from Homes England, the tripartite agreement included provision for £475,000 of the grant funding to ChaCo to be recovered by the Council over a 12 year period and then recycled into other housing delivery schemes in Leeds :

- 3.9 The Leopold Street project was the first project nationally to be provisionally approved and was subject to a number of delays on the part of HE in finalising the GFA, which have significantly affected the delivery programme. ChaCo has identified an inflationary cost increase of £345,000 on its original tendered contract, requiring new funds to be identified and in March 2019, a request was made by ChaCo to Homes England to meet this further amount through additional grant. This has been agreed by Homes England as an addition to the original funding agreement with the Council, to a new total grant of £1,334,460 .
- 3.10 Furthermore it has been agreed by all parties that the £475,000 previously identified as recoverable grant under the terms of the tripartite agreement no longer needs to be recovered .
- 3.11 A Deed of Variation for the Council's GFA with Homes England has been prepared to reflect the additional amount of HIF MV grant and the amended terms of the grant. The Deed of Variation will be mirrored in a variation to the existing tri-partite funding agreement between LCC, ChaCo and Unity, which will also amend the provisions for recovery of part of the grant.
- 3.12 Securing the HIF MVF supports a genuinely mixed tenure residential development and enables the delivery of a flagship development on a challenging brownfield site. The scheme combines both community led and social housing in one location and provides a blueprint for future schemes. The co-housing element also offers a different type of housing product to that offered by traditional house builders and the existing housing stock, thereby diversifying the local housing market offer.
- 3.13 There is also £1.3m of SOAHP grants committed to both the Unity scheme and the ChaCo scheme. To preserve the availability of these grants both Unity and ChaCo have completed the acquisition of the site from the Council, which enables draw down of funds from the 2018/19 Financial Year allocations.
- 3.14 During the course of this continued negotiation as parties to the scheme have responded to the changing circumstances to ensure the project can take advantage of allocated grant funds and move to a position of delivery, ChaCo's short term development finance requirements have also changed. ChaCo has consequently requested the Council considers the terms on which it may be able to offer a loan to meet this gap in working capital, to be drawn down in installments related to the progress of development on site. The Exempt Appendix to this report sets out the issues for consideration by Members in responding to this request.
- 3.15 Executive Board is asked to note the due diligence and assessment set out in the Exempt Appendix that has been undertaken by the Council in consideration of the loan request, which informs the risk profile and recommendations.

- 3.16 The flagship scheme is one of only six in the country to be fast tracked through the Homes England due diligence and clarification process. Despite delays in the funding process it will be the first HIF MV scheme to Start on Site.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The Executive Member for Regeneration, Transport & Planning has been regularly briefed on the proposals and is fully supportive of the development.
- 4.1.2 Ward Members are also supportive of the scheme and have been briefed on the latest position.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 The Equality and Diversity, Cohesion and Integration screening document has been completed to ensure due regard to equality issues. This is attached for reference at Appendix 2.
- 4.2.2 The recommendations in this report have a number of positive equality outcomes. This scheme will provide 36 new supply affordable homes which will have a beneficial impact for socio-economic equality groups, including older people.

### **4.3 Council Policies and the Best Council Plan**

- 4.3.1 The delivery of new housing that is affordable and meets local needs underpins the Council ambition of creating a strong economy and a compassionate city.
- 4.3.2 The proposals outlined within the report support the delivery of the 2018/19 – 2020/21 Best Council Plan priority of delivering Housing of the right quality, type, tenure and affordability in the right places.
- 4.3.3 The development of new supply Affordable Housing 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 Core Strategy Selective Review, it is proposed that the target will increase to 1,230 per annum.
- 4.3.4 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 The utilisation of Homes England HIF MVF grant will support both ChaCo and Unity in stretching their funding resources further and will ultimately ensure that the scheme is financially viable and deliverable.

- 4.4.2 In addition to the HIF and PWLB amount, a further c£1.3m grant funding is being levered in from the Shared Ownership & Affordable Housing Programme, which is contributing towards the development costs of the Affordable Rented and Shared Ownership units.
- 4.4.3 The project arrangements described in this report have enabled disposal of the Leopold Street site by the Council to Unity and ChaCo, supporting the the Council's capital receipts programme.
- 4.4.4 Matters relating to the loan request from ChaCo to the Council are set out in the Exempt Appendix.

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 Following lengthy legal negotiations, there is a criticality around the gaining approval to enter into the Deed of Variation relating to the GFA between Leeds City Council and Homes England. As the detailed Terms & Conditions were not finalised until mid-March 2019, there has been no previous opportunity to bring this decision forward for approval, as any detail outlined in previous draft agreements would have not been accurate and could have exposed the Council to unnecessary risk.
- 4.5.2 In addition to this, the scheme start on site has been delayed for 12 months and any further potential delay could result in the scheme becoming financially unviable and undeliverable due to further increases in development costs.
- 4.5.3 Executive Board is therefore asked to take this decision under the 'Exempt from Call In' procedures, as outlined in the Council's constitution, so that the financing arrangements can be put in place in a timely way and ChaCo can progress works on site without risk of further cost increases, which may impact on viability. This decision could not have been taken earlier so as to enable it be called in, as the need for financing of the working capital has only arisen at a very late stage in the completion of the land acquisition and finalisation of HIF/SOHP grants by ChaCo.
- 4.5.4 The information contained in the Exempt Appendix attached to this report relates to the financial or business affairs 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 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. 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 Procedure Rules.

4.5.5 Legal advice in regard to the loan request from ChaCo to the Council is set out in the Exempt Appendix.

## **4.6 Risk Management**

4.6.1 The development scheme will be managed by ChaCo and Unity Housing Association and will be delivered by their principal contractor. The Head of Regeneration will monitor scheme delivery through the Key Account Management structure that is in place with Registered Providers to ensure that delivery is following the agreed timeline and meeting the milestones as outlined within the grant funding agreement.

4.6.2 Any emerging risks with potential non-delivery or non-compliance with the terms and conditions of the grant will be reported through to the Housing Growth Board, chaired by Director of City Development which has the Director of Resources & Housing as a member.

4.6.3 Furthermore, it is to be acknowledged that there is a risk in relation to scheme delivery. This is the first time ChaCo has undertaken a housing delivery project and therefore it has an unproven track record. ChaCo has appointed an experienced Project Manager to oversee the delivery and will be working in partnership with Unity and the appointed contract to deliver the site in line with the planning permission.

4.6.4 In addition, in the event the development were not completed or the funding used in breach of the terms of the GFA, the Council would be required to pay back the grant funding to Homes England. The funding agreement between the Council, ChaCo and Unity HA will contain mirrored provisions to enable the Council to claw back from either organisations in these circumstances. However should either party go in to liquidation recovery may not be possible. The obligations on both ChaCo and Unity under the grant agreement are joint and several however and can be enforced against either party if required.

## **5 Conclusions**

5.1 The HIF MV grant funding provides an opportunity for an innovative partnership approach to deliver a flagship collaborative housing project that involves a local Registered Provider and the local community. This will deliver new supply housing to meet local requirements, as well as bringing in external funding from a national government programme to support new developments in the city. The HIF MV Scheme is the most advanced in the country in terms receiving the fund and start on site.

## **6 Recommendations**

6.1 Executive Board is recommended to:

1. Agree that the Director of City Development enters into a Deed of Variation to the existing HIF grant agreement with Homes England to a revised amount of £1,334,460 as set out at paragraph 3.9.

2. Agree that the Director of City Development enters into a Deed of Variation to the Grant Funding Agreement with ChaCo and Unity to a revised amount of £1,334,460 and removes the requirement for recoverability of grant as set out at paragraph 3.10.
3. Agree the recommendations set out in the Exempt Appendix 1 in respect of ChaCo's request for a phased draw-down loan from the Council to meet short term development financing requirements.
4. Exempt the resolutions arising from this report from the 'Call-In' process, on the grounds of urgency, as detailed within paragraph 4.5.3 report.

## **7. Appendices**

- 7.1 Appendix 1 – Exempt Appendix
- 7.2 Appendix 2 – EIA Screening Form

## **8 Background documents<sup>1</sup>**

- 8.1 None.

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<sup>1</sup> 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.