

**Report of:** Head of Land and Property

**Report to:** Chief Officer Asset Management & Regeneration, and  
Chief Officer for Resources & Housing

**Date:** July 2019

**Subject:** Ex-council properties to be acquired by the Council and returned to council housing stock – Detailed in the confidential appendix

Are specific electoral wards affected? If yes, name(s) of ward(s): Various (detailed in confidential appendix)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<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
Will the decision be open 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

### 1. Main issues

- The Right of First Refusal (ROFR) Regulations, which are part of the Right to Buy (RtB) legislation, require that any home owner who is selling a property bought from the Council under RtB within the previous ten years must offer it to the Council before putting it on the open market.
- Some of the properties detailed herein fall into The Housing (Right of First Refusal) (England) Regulations 2005, others are properties which have been voluntarily offered back to the Council for re-purchase.
- The Council Housing Growth Programme has a challenging target to deliver a minimum of 300 new Council homes a year to contribute to an overall affordable housing target of 1,230 homes annually across the city from 2019. This will be achieved predominantly through a new build programme but is also being complemented by a smaller programme of property acquisitions. Suitable properties can be acquired via exercising our right of first refusal, or may be offered to voluntarily. This report identifies a number of such properties and recommends approval for their acquisition.
- It has been agreed with capital finance and the Director of Resources and Housing that the first batches of acquisitions will be funded from existing Council Housing Growth Programme unallocated budget pending Approval to Spend being sought for the 2-3 year programme from Executive Board in July 2019.

## **2. Best Council Plan Implications**

- Housing is one of the Best City priorities as set out in the Best Council Plan, and this programme will directly support the following priorities by delivering additional social housing stock:
  - a. Housing of the right quality, type, tenure and affordability in the right places.
  - b. Minimising homelessness through a greater focus on prevention
- The programme will also directly contribute to ensuring that “everyone in Leeds Live(s) in good quality, affordable homes, in clean and well cared for places” which is one of the target outcomes set out in the Best Council Plan.

## **3. Resource Implications**

- Funding for the acquisitions is made up of a combination of Housing Revenue Account and Right to Buy receipts. A capital scheme has been created to acquire these properties. Housing Leeds has confirmed it will take on management responsibility for the properties.
- The meeting of Full Council on 27 February 2019 approved an injection of £90.9m into the Council Housing Growth Programme.
- £22.5m of this was set aside to support the new property acquisitions / buyback programme, which will deliver c.150-200 properties over a 2-3 year period.
- Approval to Spend is being sought from Executive Board in July 2019.

## **4. Recommendations**

- It is recommended that the Council acquires the ex-council properties detailed in the confidential appendix to be returned to council housing stock.

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### **1. Purpose of this report**

- 1.1 The purpose of this report is to recommend the terms upon which the Council will re-purchase the properties detailed in the confidential appendix.

### **2. Background information**

- 2.1 The Housing (Right of First Refusal) (England) Regulations 2005 (ROFR), which came into force in August 2005, require that owners who bought their council home through a Right to Buy and who want to sell it within 10 years of their original purchase, make a first offer to the Council prior to progressing a sale on the open market. In addition to properties offered to us under the Right of First Refusal, the Council also receives voluntary offers from homeowners who wish to sell their former council properties even where the regulations do not apply, for example where the property was bought from the council more than 10 years ago.

### **3. Main issues**

- 3.1 Each potential property buy back has been assessed on its own merits, against both Council Housing Growth programme objectives and also in the context of local housing needs.
- 3.2 All the properties detailed in the appendix have been valued by Land & Property Officers following a full inspection. At the same time, a technical assessor from Property & Contracts also carried out an inspection, providing a Stock Condition Survey report. Both reports have been submitted to the Council Housing Growth Team to ascertain whether the property is suitable for repurchase and within the parameters of the target budget for each acquisition. Properties to which the Right of First Refusal Regulations apply must be offered back to the Council at market value. The Council's assessment of market value is issued by Legal Services by service of a notices under the ROFR regulations (where applicable) to the owners of the properties.
- 3.3 In circumstances where a former tenant who exercised their Right to Buy subsequently sells their property within 5 years of the Right to Buy sale completion date, they are liable to repay a proportion of the Right to Buy discount received as determined under the Housing Act 1985 (this applies whether or not they sell it back to the authority). Where this applies to a property it is set out in the confidential appendix to this report. This amount will be deducted from the purchase price on completion. The costs associated with reacquiring these properties will be met from the Council's capital funding allocated to the Council Housing Growth Programme. Refurbishment works to bring the properties to lettable standard will also be funded from the programme budget.
- 3.4 On 17 April 2019 the Director of Resources and Housing:
- i) "Authorised the required expenditure to enable the programme to progress the first tranche of property acquisitions as detailed in Confidential Appendix A. These acquisitions to be funded from existing Council Housing Growth Programme unallocated budget, made up of a combination of Housing Revenue Account (HRA) and Right to Buy receipts.
  - i) Noted that a report will be submitted to Executive Board in June 2019 to secure Authority to Spend approval for the overarching 3 year property acquisitions programme.
  - ii) Noted that a report is being submitted in parallel to the Director of City Development to request approval to acquire these assets for Housing & Resources so that they can be returned to Council Housing Stock."
- 3.5 Housing Leeds has agreed to take on the responsibility and management of the properties.
- 3.6 Terms for the acquisitions are detailed in the attached confidential appendix.

## **4 Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 As part of the established process for this programme The Council Housing Growth Programme has engaged Housing Management, Housing Finance, Land & Property, Property & Contracts, and other relevant internal stakeholders in relation to these potential acquisitions. Housing Leeds has confirmed the properties are suitable for reintroducing to Council stock to meet local housing needs. They have also agreed to take on the future management and responsibility for the properties.
- 4.1.2 The Executive Member for Communities has been consulted and is supportive of the Programme. Regular updates on progress across the whole programme are being provided to the Council Housing Growth Programme Board.
- 4.1.3 Local Ward Members are updated on any acquisitions in their ward areas, as they progress.

## **5 Equality and diversity / cohesion and integration**

- 5.1 There are no equality issues arising from this proposal.
- 5.2 The Council Housing Growth Programme have undertaken an initial Equality and Diversity screening in relation to these proposals and have concluded that a full assessment is not required.

## **6 Council policies and the Best Council Plan**

- 6.1 Housing is one of the Best City priorities as set out in the Best Council Plan, and this programme will directly support the following priorities by delivering additional social housing stock:
  - a. Housing of the right quality, type, tenure and affordability in the right places.
  - b. Minimising homelessness through a greater focus on prevention.
- 6.2 The programme will also directly contribute to ensuring that “everyone in Leeds Live(s) in good quality, affordable homes, in clean and well cared for places” which is one of the target outcomes set out in the Best Council Plan.

## **7 Climate Emergency**

- 7.1 Going forward, an energy performance assessment will be undertaken as part of the technical inspection of each potential acquisition. This assessment will be used to determine whether, as part of refurbishing the property, additional measures can and should be implemented (above lettable standard) to improve the energy performance (SAP rating) of the properties. This would be with a view to making them more energy efficient and less expensive to heat, positively contributing to fuel poverty and reducing carbon output.

## **8 Resources, procurement and value for money**

- 8.1 Each property proposed for repurchase has been individually assessed using an annuity model to confirm the investment is financially viable.
- 8.2 The properties will become the responsibility of Housing Leeds and will be re-let.
- 8.3 Funding for the acquisitions is made up of a combination of Housing Revenue Account and Right to Buy receipts. Approvals are being sought from the Director of Resources and Housing for these initial acquisitions. The current capital scheme approval No. 16692/000/000 is being used to acquire these properties. Housing Leeds has confirmed it will take on management responsibility for the properties.

## **9 Legal implications, access to information, and call-in**

- 9.1 Under Part 3, Section 3E(g) of the Council's Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of the Executive in relation to Asset Management.
- 9.2 The Head of Land and Property has authority to take the decisions requested in this report under Executive functions 1 and 10 (specific to the Director of City Development) of the Director of City Development's sub delegation scheme.
- 9.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.
- 9.4 The information contained in the Appendix 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 relation to certain companies and charities. It is considered that since this information was obtained through one to one negotiations for the purchase of the land/property referred to then it is not in the public interest to disclose this information at this point in time. Also the release of such information would or would be likely to prejudice the Council's commercial interests in relation to and undermine its attempts to acquire by agreement similar properties in the locality in that owners of other similar properties would be aware 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 available from the Land Registry following completion of the purchase 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.

## **10 Risk management**

- 10.1 The risks associated with the proposed acquisitions are considered below:
- 10.2 The overarching Council Housing Growth Programme is being delivered using the Council's agreed project management methodology and a programme risk log will be maintained and risks managed, monitored and escalated through the governance process as necessary.

- 10.3 Risk of failure to meet affordable housing targets. Delivery of the proposals set out in this report will contribute to mitigating one of the Council's corporate risks around failure to meet additional housing supply targets and the consequent lack of homes for people in Leeds. There remain pressures in respect of delivering new affordable housing within the city despite the relative success in the overall delivery of new homes in Leeds which remains a corporate risk for the Council.
- 10.4 Loss/payback of RtB receipts to MCHLG. As set out above, based on current RtB rules, if the 'one-for-one' element of the receipt generated by a RTB purchase is not spent within 3 years then it must be returned to central government. This programme will contribute to mitigating this risk by utilising some of the receipts which would otherwise be at risk of being handed back.
- 10.5 Financial Viability Risk. The financial viability assessments undertaken in relation to these acquisitions (and associated refurbishment costs) have included consideration of the potential financial risk to the council should there be a further RtB exercised in relation to the property in future, factoring in applicable cost floor (the lower of the market value and the purchase/ build costs of the property). The cost floor would be the acquisition price net of any RtB discount that was repayable at the time. There is a risk that in the initial 15 years following acquisition the Council could still make a loss if there was a downturn in the market and the tenant exercised their RtB at a point where the market value was lower than the amount the council paid for the property. Rents, however, will be set at such a level as to help mitigate this risk as far as possible within the constraints of the legislation, and to help ensure the council will achieve an acceptable payback period. The viability modelling is also based on certain assumptions about the housing market and future movements in house prices/ rents, which may not prove to be accurate. Should rents or housing prices fall, or not rise in line with our assumptions, the payback period could be longer than predicted.
- 10.6 Property Suitability Risk. The Council Housing Growth Programme will consult with Housing Leeds and Property & Contracts officers prior to offering on any property to ensure they are suitable for acquisition and will be easily let, based on local supply and demand information, and of a type that can be managed and maintained in line with existing council asset management strategies.
- 10.7 There is a risk that once the acquisitions are complete, further works to the properties may be required which were not identified initially and this could lead to increased costs. However, a thorough condition inspection is carried out on each property and a detailed cost report prepared prior to re-purchase. This ensures that the condition of each property is known.

## **11 Conclusions**

- 11.1 The properties detailed in accompanying confidential appendix have been individually assessed and confirmed as being of a type, size and in such locations that repurchasing them will contribute to meeting locally defined social housing needs.
- 11.2 The associated costs have been assessed by finance and found to represent viable investments, and value for money.
- 11.3 It is concluded that the acquisition of the properties detailed in confidential appendix are suitable for repurchase to be returned to Council housing stock.

## **12 Recommendations**

- 12.1 It is recommended that the Council acquires the ex-council properties detailed in the confidential appendix to be returned to council housing stock.

## **13 Background documents**

- 13.1 None