

**Report of Director of City Development and Director of Resources and Housing**

**Report to Executive Board**

**Date: 10<sup>th</sup> February 2021**

**Subject: Acquisition of premises at Kingsdale Court, Seacroft**

Are specific electoral wards affected? If yes, name(s) of ward(s): Killingbeck & Seacroft	<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 checked="" type="checkbox"/> Yes <input 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: Exempt Under Access to information procedure rule number: 10.4(3) Appendix number: 2	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**Summary**

**1. Main issues**

- 1.1 This report outlines a proposal to purchase the long-leasehold interest in a portfolio of at least 40 flats at Kingsdale Court, Seacroft as part of a co-ordinated response across Council and partner services to resolving acute neighbourhood management issues and extremely poor housing conditions that have blighted the surrounding neighbourhood for at least the last decade. This site is located within the heart of the Boggart Hill priority neighbourhood (as identified by Executive Board in November 2017) and makes up around 11.5% of all homes within this Lower Super Output Area, where deprivation levels are in the bottom 1% nationally. Appendix 1 provides a location plan.
- 1.2 Kingsdale Court comprises 88 flats across eight blocks, all of which are currently in private ownership. The flats within the portfolio are located across six of the eight blocks on site. The site has been a focus for significant and sustained crime and anti-social behaviour, resulting in major impacts on amenity and safety for residents in and around the site, deteriorating housing and environmental conditions and a high rate of void properties; around half of the flats across the full site are empty. The Council and partners have undertaken statutory enforcement, including temporary closures of two of the apartment blocks and further longer term interventions are currently being considered.
- 1.3 The portfolio of 40 flats had been held in administration since late 2019 following the failure of the previous holding company. The portfolio has recently been purchased by a property developer with a view to long term investment and further acquisitions in

the site to enable comprehensive refurbishment. Whilst informal negotiations have taken place in relation to a portfolio of 40 flats, it is understood that the vendor has recently acquired a small number of additional flats that could be added to the portfolio.

- 1.4 Whilst the intention of the developer is positive, there are currently a large number of interests across the site (freehold, head leases, sub-leases, tenancies and management companies) that have created a complex set of property relationships, fragmented responsibilities and obligations, which in part have contributed to its social and environmental problems. A single third party acquisition of these cannot be guaranteed and would leave significant concern about the potential for resolution of the ongoing challenges of the nature experienced to date. Officers have engaged with the developer and there is a willingness to consider disposal to the Council where this may be a better route to achieving more certainty of a sustainable and positive outcome at Kingsdale Court.
- 1.5 Purchasing the portfolio would place the Council in a position of significant ownership and leverage on the site, to influence change. Whilst this is opportunistic in the first instance it would also require a commitment towards wider site assembly with the aim of consolidating all interests into one ownership to facilitate a cost effective and comprehensive solution. Subject to assembly, if a detailed scheme is shaped and approved, the site could lend itself well to the development of new Council Housing development to meet local need. If an acquisition of the initial portfolio is made there would be a need for the flats to be properly managed by the Council, preventing further deterioration of the site and to enable the first steps in a longer term plan for improvements to living conditions, reducing the negative impact on the surrounding community, in terms of crime, anti-social behaviour and environmental blight.
- 1.6 Acquisition of these properties would allow the challenge of extremely poor quality private sector housing to be tackled and fit-for-purpose affordable housing to be provided at a later date as part of the Council's commitment to sustainable change and regeneration in one of its priority neighbourhoods.
- 1.7 There are very complex property and legal interests across the site which continue to be examined as part of a due diligence process. Further detail is set out in Exempt Appendix 2.
- 1.8 Whilst the main purpose of this request to Executive Board is to seek approval for delegated powers to secure acquisition of the portfolio of at least 40 flats, it is also requested that in principle authority is given to acquire any and all further interests across the site with the aim of addressing social and environmental conditions and facilitating a sustainable development solution.

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

- 2.1 The acquisition of the portfolio of flats at Kingsdale Court clearly supports a number of priorities within the Best Council Plan (BCP) including Housing, Inclusive Growth and Safe, Strong Communities. The proposed acquisition supports a range of aims under each of these BCP priorities:
  - Targeting interventions to tackle poverty in priority neighbourhoods
  - Housing of the right quality, type, tenure and affordability in the right places

- Providing the right housing options to support older and vulnerable residents to remain active and independent
- Improving energy performance in homes, reducing fuel poverty
- Keeping people safe from harm, protecting the most vulnerable
- Tackling crime and anti-social behaviour
- Being responsive to local needs, building thriving, resilient communities

### **3. Resource Implications**

3.1 Approval is sought to release Housing Revenue Account capital funding for acquisition of the flats. Details are provided within Exempt Appendix 2. Further support will be requested in due course to support a longer term strategy for this site.

### **Recommendations**

Executive Board is recommended to:

- a) Approve the use of Housing Revenue Account capital funding in line with the detail set out in Exempt Appendix 2, to enable acquisition of a portfolio of at least 40 flats at Kingsdale Court, Seacroft, subject to recommendation (b) with final negotiations delegated to the Director of City Development in consultation with the Director of Resources & Housing and the Executive Member for Communities
- b) Approve the terms of acquisition contained in Exempt Appendix 2
- c) Give in principle support and note the delegations available to Directors to pursue further acquisitions to enable full assembly of the Kingsdale Court site and its redevelopment.
- d) To note that the Council has the potential to use its Compulsory Purchase powers to support any assembly of the site should they be required. Any such proposal would be the subject of a further report.
- e) Exempt this decision from call-in as outlined in paragraph 4.5 within the main body of the report.

## **1.0 Purpose of this report**

- 1.1 This report outlines a proposal to purchase a portfolio of at least 40 flats at Kingsdale Court, Seacroft in response to ongoing and extremely poor social and environmental conditions.

## **2. Background information**

- 2.1 Kingsdale Court is located within the heart of Boggart Hill priority neighbourhood (as identified by Executive Board in November 2017) and makes up around 11.5% of all homes within this Lower Super Output Area where deprivation levels are in the bottom 1% nationally.
- 2.2 The site comprises 88 privately owned flats across eight medium-rise blocks built in the late 1960's / early 1970's (Site location plan at Appendix 1). The site is subject to several complex layers of freehold, multiple leaseholds, tenancies and management company arrangements, which through fragmentation of responsibilities and obligations have contributed to its poor condition, having seen limited investment or basic maintenance in recent years, leading to very poor quality conditioning of the built fabric, external and communal areas. Housing conditions are generally poor and well below those of the surrounding estate of Council and Registered Provider (Housing Association) homes.
- 2.3 The Council's Neighbourhood Improvement Board agreed in April 2019 that Kingsdale Court was of a high concern and priority for action to address these housing conditions and the acute issues of crime and anti-social behaviour that were having sustained and negative impact on residents in and around the site. As part of a subsequent action plan, enforcement resources to address the site have been increased through Police, West Yorkshire Fire and Rescue Service (WYFRS), Leeds Anti-Social Behaviour Team (LASBT), the Council's Private Rented Sector and Cleaner Neighbourhoods Teams.
- 2.4 Formal enforcement activity undertaken has notably included a Prohibition Notice for Farnley House, administered by WYFRS in July 2019 and resulting in its temporary closure. In addition, recent Premises Closure Orders have been made by Leeds Anti-Social Behaviour Team for Farnley House and Gilstead House, due to extensive criminal damage to the fabric of the building, fire hazards, significant demand for Police resources, particularly relating to drugs, fly-tipping and intimidation of residents. These had been extended whilst the situation on site remains of such concern, but expired in November 2019, with the courts unwilling to grant extensions on an ongoing basis. However, the blocks continue to be fully secured by the current owner.
- 2.5 The situation at Kingsdale Court was presented at Environment, Housing and Communities Scrutiny Board in January 2020 and was highlighted as a major priority within a March 2020 Executive Board report 'Locality Working – update on progress and key developments in 2019'. Despite major interventions from a range of statutory services, the site continues to present significant challenges which create a high demand on services and continues to have a negative impact on residents living on site and within the surrounding community.
- 2.6 The portfolio of at least 40 flats is the largest single interest in the site and had been held in administration since late 2019 following the failure of the previous holding company. The portfolio has recently been purchased by a property developer with a

view to long term investment and further acquisitions in the site to enable comprehensive refurbishment. Whilst informal negotiations have taken place in relation to a portfolio of 40 flats, it is understood that the vendor has recently acquired a small number of additional flats that could be added to the portfolio.

### **3. Main issues**

- 3.1 Whilst the intention of the new owner of the portfolio of at least 40 flats is positive, the complex array of property interests across the site means that a single third party acquisition of these cannot be guaranteed and would leave significant concern about the potential for resolution of the ongoing challenges of the nature experienced to date. Officers have engaged with the developer and there is a willingness to consider disposal to the Council where this may be a better route to achieving more certainty of a sustainable and positive outcome at Kingsdale Court. The developer has made a very time-limited offer for the Council to acquire before it starts investing further significant funds in the site.
- 3.2 Purchasing the portfolio would place the Council in a position of significant ownership and leverage on the site, with a good ability to proactively influence change. Taking the opportunity to acquire this property portfolio would need to be seen as a first step in a wider site assembly exercise, with the aim of consolidating all interests into one to facilitate a cost effective and comprehensive site solution, alongside the ongoing use of statutory powers where this may continue to be appropriate to target anti-social behaviour or poor housing conditions. The site would lend itself well to the development of new Council Housing development to meet local need.
- 3.3 If an acquisition is made there would be a need for the properties to be properly managed by the Council, preventing further deterioration of the flats and to enable the first steps in a longer term plan for improvements to living conditions, reducing the negative impact on the surrounding community, in terms of crime, anti-social behaviour and environmental blight. It should be noted that the structure of the buildings, the common parts and external landscaping will still be the responsibility of the freehold owner, and outside the control of the Council, although the freehold owner would recoup any costs of repairs carried out via the service charge.
- 3.4 Housing Revenue Account (HRA) funds can be used to acquire the portfolio of at least 40 flats currently available, to bring these into Council stock as a first step in securing improvements to living conditions at Kingsdale Court and reduce the negative impact on the surrounding community, in terms of crime, anti-social behaviour and environmental blight. Through an acquisition the Council would immediately take on legal obligations for managing and maintaining these properties in good condition as part of the HRA capital programme. As leaseholder, the Council would also be liable for service charge (to cover the cost of repairs incurred by the freehold owner to put the structure and common parts into repair) and ground rent. More details of these liabilities are set out in Exempt Appendix 2. Where flats within the portfolio are occupied by rent-paying tenants, the Council would also be legally obliged to manage these as Secure Tenancies. It would be the intention in due course to use appropriate statutory means to obtain vacant possession of all the flats acquired, whilst ensuring all existing housing needs are met through offers of alternative accommodation.
- 3.5 Executive Board approval in principle is sought to acquire the portfolio, subject to a maximum ceiling price set out in Exempt Appendix 2, with the further negotiations to

finalise acquisition delegated to the Director of City Development in consultation with the Director of Resources and Housing and the Executive Member for Communities.

3.6 Concurrently and rapidly a more detailed plan will be developed to acquire all land and property interests across the site to enable the delivery of fit-for-purpose affordable housing. It is therefore also requested that in principle authority is given to acquire any and all further interests across the site with the aim of addressing social and environmental conditions and facilitating a sustainable development solution.

3.7 It is considered that this is a unique and time-bound opportunity for the Council to take a decisive ownership interest in the site so that it is best positioned to take a lead role in securing wider improvements for the benefit of current and future residents. There are very complex property and legal interests across the site which continue to be examined as part of the due diligence process. Further detail is set out in Exempt Appendix 2.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

4.1.1 Ward members and the Executive Member for Communities have been consulted and are fully supportive of the acquisition of the portfolio of flats.

4.1.2 The cross-sector partnership Boggart Hill Priority Neighbourhood Team has had ongoing involvement in the site and is supportive of the proposed approach. Consultation with local residents shows that Kingsdale Court has proved a major ongoing source of concern for the community, particularly in terms of housing, crime and anti-social behaviour.

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

4.2.1 Whilst poverty is not a protected characteristic under Equality legislation, the Council recognises the need to target support to those communities with disadvantaged socio-economic status.

4.2.2 Taking an ownership interest in Kingsdale Court to better enable improvements as part of a co-ordinated action plan clearly has a positive cohesion impact for the immediate and surrounding community.

4.2.3 An Equality, Diversity, Cohesion and Integration (EDCI) screening assessment is attached at Appendix 3. This suggests that while the proposals seek to address poverty and inequality, there are no direct equalities implications under equality legislation.

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

4.3.1 The acquisition of the portfolio of flats and intent to undertake comprehensive assembly of the site at Kingsdale Court clearly supports a number of priorities within the Best Council Plan (BCP) including Housing, Inclusive Growth and Safe, Strong Communities. The proposed acquisition supports a range of aims under each of these BCP priorities:

- Targeting interventions to tackle poverty in priority neighbourhoods
- Housing of the right quality, type, tenure and affordability in the right places

- Providing the right housing options to support older and vulnerable residents to remain active and independent
- Improving energy performance in homes, reducing fuel poverty
- Keeping people safe from harm, protecting the most vulnerable
- Tackling crime and anti-social behaviour
- Being responsive to local needs, building thriving, resilient communities

### Climate Emergency

- 4.3.2 At the March 2019 Full Council meeting and April 2019 Executive Board a Climate Emergency was declared by the Council. The Council committed to doing more to tackle climate change and to consider the carbon impact of every decision it takes.
- 4.3.3 The acquisition of this property interest in Kingsdale Court will not in itself have any Climate Emergency impacts. A further report will be provided in due course to set out proposals for investment in the site in more detail, and this will include further details of how those proposals will take into account and contribute towards achieving the council's aspirations in relation to climate change. At this stage it may be noted that the empty properties on the site represent a poor utilisation of embedded energy and under-use of residential land in a sustainable location. Any future redevelopment of the site will reflect improved and current energy performance requirements.

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

- 4.4.1 The acquisition of the portfolio of flats currently for sale at Kingsdale Court is being progressed on the basis of a recent Land and Property Service valuation and is considered to be value for money, benchmarked against recent investment values obtained through individual property sales within the site.
- 4.4.2 Finance advice is supportive of the use of Housing Revenue Account funding for this acquisition and for further site assembly activities, given the clear links to the provision of good quality affordable Council housing in the future, to be developed and managed as part of the Council's own stock.
- 4.4.3 There will be ongoing costs associated with taking the flats into stock (ground rent and service charge) as well as costs to put the flats into good repair in accordance with the lease obligations, but it is considered that these can be met from within the HRA budget. An assessment of these insofar as they relate to the negotiation of price to acquire is set out in Exempt Appendix 2.

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

- 4.5.1 The Council has a range of statutory powers to acquire legal interest in land. The recommendations for acquisition of the 40 flats will be under the powers to acquire (Housing Act 1985, section 17). Ownership of the property is complex with the Council acquiring a leasehold interest in the land. Both internal and outsourced ongoing legal advice is being considered as part of the due diligence process.
- 4.5.2 Alongside this, and given the intention for total site acquisition, the Council can have recourse to alternative statutory means of Compulsory Purchase of land currently not assembled.
- 4.5.3 The use of a Compulsory Purchase Order (CPO) should however only be considered an option of last resort where negotiations to purchase through private treaty cannot be properly progressed. Whilst these powers are set out for information only at this

stage, at all times acquisition by agreement ought to be favoured. Where such efforts fail, a further report maybe brought to Executive Board on detailed consideration of further use of any statutory powers by way of CPO, if there is deemed to be a case and justification for doing so.

- 4.5.4 The information contained in Exempt Appendix 2 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. 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 Procedure Rules.
- 4.5.5 This report and the decisions from it are recommended to be exempted from the call-in process. The opportunity to acquire the portfolio is very time limited with informal negotiations requiring formalising through Executive Board approval and immediate approval to secure acquisition. The Council has been advised that if it is not able to progress quickly and provide a clear timetable for moving towards exchange of contracts, the current owner will progress alternative plans which are unlikely to secure sustained and long term improvements on site. This would have a significant impact on the Council and partners' ability to realise the sustainable and positive changes required to alleviate anti-social behaviour, neighbourhood management and housing conditions at the site.
- 4.5.6 As such the delay posed by the call-in period normally attached to such a decision would seriously prejudice the Council's interests. The decision could not have been taken any sooner due to the rapid way in which the portfolio has become available for purchase and the limited time that has been given to the Council to conclude a transaction. In taking this timely decision, the Council is making a commitment to undertaking wider site assembly but the short term acquisition and principle of longer term assembly cannot be considered independently.

## **4.6 Risk management**

- 4.6.1 There are some risks to the Council acting at speed to respond to this acquisition opportunity, though it is considered that there are good controls on these and that the proposed intervention remains proportionate to the matters it seeks to address.
- 4.6.2 A robust valuation has been undertaken and an indicative price has been negotiated that is considered acceptable to the Council's professional surveyor engaged in this project. The interests to be acquired are forty individual long leaseholds, not a freehold, which limits the extent to which fundamental works to each flat could be undertaken and which impose repairing and service charge obligations on and funded by the leaseholders. However it is intended that for the short term at least the flats will be taken into stock and managed by Housing Leeds through its void



management protocols and procedures, with 10 of the flats being within the blocks currently subject to Property Closure Orders. A longer term investment and management strategy will be brought forward alongside discussions with other property interests in the site, including the freeholder. Any investment will be through the HRA and as such there is no risk to the Council's general fund budget or capital programme.

- 4.6.3 These risks and the management controls on them are not outweighed by any benefits in the alternate course of action, which is to turn down the acquisition opportunity and await consolidation of the fragmented site interests, with the continued lack of direct control or influence over the physical and social conditions in this sensitive part of the priority neighbourhood.

## **5 Conclusions**

- 5.1 The report has presented a request for approval to commit HRA funding to acquire a portfolio of at least 40 flats at Kingsdale Court, within one of the Council's priority neighbourhoods. The current opportunity allows the Council to bring the flats into stock, to be part of the solution to poor social and physical conditions on site and to work towards a clear plan for investment in the site alongside other property interests.
- 5.2 The report also requests in principle Executive Board support for further acquisition of all interests across the site to enable its full assembly, control and ultimately redevelopment.

## **6 Recommendations**

- 6.1 Executive Board is recommended to:
- a) Approve the use of Housing Revenue Account capital funding in line with the detail set out in Exempt Appendix 2, to enable acquisition of a portfolio of at least 40 flats at Kingsdale Court, Seacroft, subject to recommendation (b) with final negotiations delegated to the Director of City Development in consultation with the Director of Resources & Housing and the Executive Member for Communities
  - b) Approve the terms of acquisition contained in Exempt Appendix 2
  - c) Give in principle support and note the delegations available to Directors to pursue further acquisitions to enable full assembly of the Kingsdale Court site and its redevelopment
  - d) To note that the Council has the potential to use its Compulsory Purchase powers to support any assembly of the site should they be required. Any such proposal would be the subject of a further report.
  - e) Exempt this decision from call-in as outlined in paragraph 4.5 within the main body of the report.

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

- 7.1 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.