

Council Housing Growth Programme – Off the Shelf New Build Property Acquisitions

Date: 2nd December 2021

Report of: Head of Council Housing Growth Programme

Report to: Chief Officer of Asset Management and Regeneration

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

- To support the Council's target of delivering 1,500 new council homes by 2025, in line with the Best Council Plan targets to increase the number of new affordable homes and to support sustainable and inclusive growth.
- This is being achieved predominantly via a substantial new build programme; but is also complemented by a property acquisitions programme which has received approval to acquire *off the shelf* new build properties from a range of partners.
- This report sets out proposals for supporting the delivery of affordable housing across the city through the Council Housing Growth Programme (CHGP) to purchase a number of *off the shelf*, new build properties.
- This proposal will utilise Right to Buy (RtB) Receipts which if unspent are at risk of being returned to Government and lost to the City.

Recommendations

- a) Grant authority to Purchase and to Spend, in relation to a number of new build property acquisitions in Killingbeck and Seacroft ward. Breakdown of costs and the terms of the acquisitions detailed in **confidential Appendix A**.
- b) Support the use of the Housing Revenue Account (HRA) funding blended with Right to Buy receipts to fund the acquisitions.
- c) Noted that approval was granted for the establishment & funding of a new programme of *off the shelf*, new build acquisitions in March 2020; and that a report was submitted to Executive Board March 2020, however, Board was cancelled so the decision was subsequently taken by the Director of Resources and Housing. The report included delegation to acquire future batches of properties to the Director of City Development.

- d) Noted that delegations for Council Housing Growth programme activities were added into the Director of City Development's scheme as of the 1st April 2021 which includes delegation of acquisition and spend to the Chief Officer of Asset Management and Regeneration.
- e) The Chief Officer (Housing) of Communities, Housing & Environment has been consulted and agreed acquisition and taking into the Housing Leeds portfolio on 17th September 2021.

Why is the proposal being put forward?

- 1 To seek Authority to Acquire and Spend from the Director of City Development to enable seven *off the shelf* new build properties to be progressed by the Council Housing Growth Programme. Details of which are included in **confidential Appendix A** due their commercial sensitivity.
- 2 To help contribute to the Councils target of increasing the amount of affordable housing to Council tenants across the city, help achieve our aim to deliver an overall target of 1,500 by 2025.
- 3 This *off the shelf* initiative provides a further opportunity for the Council Housing Growth Programme to support the Council's best city aspirations and to deliver regeneration objectives and much needed affordable housing, including in areas where there may be no land available for new build.

What impact will this proposal have?

Wards Affected:		
Have ward members been consulted?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Killingbeck & Seacroft		

- 4 Housing has been identified as one of the Council priorities as set out in the Best Council Plan; these property acquisitions shall directly support & contribute to the following priorities:
 - a) Housing of the right quality, type, tenure and affordability in the right places
 - b) Minimising homelessness through a greater focus on prevention
 - c) Tackling fuel poverty; and
 - d) Ensuring that “everyone in Leeds Live(s) in good quality, affordable homes, in clean and well cared for places”
- 5 The property acquisitions shall also directly contribute to the achievement of a number of key performance indicators the Council will use to measure success including:
 - a) Growth in new homes in Leeds
 - b) Number of affordable homes delivered
 - c) Improved energy and thermal efficiency performance of houses; and
 - d) Number of households in fuel poverty
- 6 **Climate Emergency** - the Council has in previous reports to Executive Board set out how the adoption of the Leeds Standard and specification for its own council housing new build programme enables us to support the climate emergency agenda through its focus on cutting carbon, improving air quality and tackling fuel poverty, and central to this is the well-being of tenants.

Whilst these proposed *off the shelf* purchases will not be built to the Leeds Standard, the Council will, in considering potential schemes of this kind, assess the energy performance of the dwellings and the general performance and specification of the homes to ensure that it only works with, and invests in, new homes that are comparable or exceed the Energy Performance standards we set for our new build own stock.

- 7 An Equality, Diversity, Cohesion and Integration (EDCI) screening has been completed to evaluate the potential impact of these acquisitions and the opportunity set out in **confidential Appendix A**, in terms of equality, diversity, cohesion and integration.

It is considered that the proposals have only a positive impact in terms of EDCI in that they will contribute to delivering an increase in supply of genuinely affordable homes to meet current and predicted localised gaps in affordable housing provision across the city's neighbourhoods. A copy of the EDCI screening document is attached for reference at **Appendix B**.

What consultation and engagement has taken place?

- 8 The Executive Member for Communities was consulted on the off the shelf acquisitions on 16th August 2021, with an update provided on 10th September 2021 and is supportive of the programme.
- 9 Local Ward Members have been updated and consulted; last communications 24th – 29th September 2021. Two of the three members responded and were very supportive of the proposed acquisitions.
- 10 The Chief Officer (Housing) of Communities, Housing & Environment has been consulted and agreed acquisition and taking into the Housing Leeds portfolio on 17th September 2021.
- 11 As part of the established process for this programme the Council Housing Growth Programme engaged with Housing Management, Housing Finance, Legal services, Procurement & Commercial, Land & Property and other internal stakeholders prior to making an offer of purchase for these potential acquisitions.
- 12 Regular updates on progress across the whole programme are provided to the Council Housing Growth Programme Board; last update provided September 2021.

What are the resource implications?

- 13 The meeting of Full Council on the 26th February 2020 approved a further capital injection of £116m into the Council Housing Growth Programme, taking the overall funding injected and available for the Council House Growth Programme to £328m.
- 14 £30m of this is set aside to support the *off the shelf* property acquisitions programme, which will purchase c150 new build properties over the next few years.
- 15 The funding for each batch of purchases will comprise a blend of HRA borrowing and either Homes England Grant subsidy or retained Right to Buy receipts. The most appropriate funding for each opportunity will be determined on a case by case basis – these acquisitions shall be funded using Right to Buy receipts; this shall enable the authority to mitigate the amounts at risk of hand back to central government in the current and next financial year. Beyond this period, the council intends to maximise the use of its retained Right to Buy receipts towards its own new build programme.

- 16 Once more of the Council's new build schemes commence construction, the Council will be able to fully apply its retained Right to Buy Receipts towards those new homes, and the council would look to alternative sources of funding for any further off the shelf purchases beyond that point, if applicable. Note: Recent changes to the rules which govern the use of right to buy receipts now means that Local authorities have 5 years to spend receipts instead of 3 years, this was done to give Local Authorities longer to plan and construct new housing. They increased the maximum amount of RTB that could be applied to scheme costs to 40% instead of 30%. As part of this change was to promote creation of new housing they also placed limits on the number of properties an authority can purchase in a given year. For 2022/23 20 units or 50% of the programme can be purchased (whichever is greater) with the rest needing to be built (as determined by units which have started on site that financial year), for 2023/24 this changes to 20 units or 40% purchase 60% built and for 24/25 onwards its 20 units or 30% purchase to 70% built.
- 17 Rents will be set in accordance with the rent setting approach approved by Executive Board in June 2019, subject to viability.
- 18 Acquisitions from developers will fall outside the Public Contract Regulations 2015 as the Regulations' exempt "*public service contracts for the acquisition or rental by whatever financial means, of land, existing buildings or other immovable property.*" LCC will be buying an "off the shelf" product and not specifying anything other than things that are covered in the developer's general specification and any corresponding planning and building regulation approvals. These acquisitions will therefore be considered on their merits as property transaction. However, they will be subject to LCC's internal Contract Procurement Rules and appropriate advice is being sought from City Development and Legal Services in regard to proposed property values and acquisition terms and contract requirements
- 19 In the alternate, if LCC were to seek to specify anything in respect of these acquisitions then the Public Contract Regulations 2015 would apply to works contracts of a value of £4,733,252 and above, known as the threshold. It is understood that the proposed property acquisitions do not collectively breach the procurement threshold amount.
- 20 The purchase prices of acquisitions has been agreed, having been assessed by City Development Land and Property Officers and confirm the agreed purchase price as market value.
- 21 The programme has assessed these proposals to confirm whether the purchases represent a viable investment (in terms of how long it will take to repay the associated borrowing based on assumed income generation/savings) and value for money (VfM). The VfM assessment takes into account the market valuation, and likely rental income from the property.
- 22 The viability test assesses each property individually using an annuity model. A property is deemed a viable investment if the repayment period for the interest and capital is 30 years or less. A 30 year repayment period allows the authority to meet its obligation under Section 24(1) of the 1985 Act which states that "in the context of setting rents, an important consideration will be to set rents at a level which will enable the Council to meet its 30-year HRA business plan requirements". The model highlights the financial loss the council could incur if the property were to be sold via RtB after the 15 year period of cost floor protection ends, but ensures that the capital receipt would be sufficient to repay any outstanding debt at that time.

- 23 Based on the assumed rents, and funding 30% of the acquisition costs using Right to Buy Receipts, the acquisitions are financially viable within the standard 30 year payback period.
- 24 Right to Buy spend is reported quarterly – funding spent as at 30th June 2021 and available funding to fund these & future acquisitions is contained in confidential appendix A (item 1.4).

What are the legal implications?

- 25 This report is a Key Decision and is subject to call in as a report to Executive Board.
- 26 The Council is authorised to acquire housing under section 17 (1) (b) of the Housing Act 1985 which states “a local housing authority may for the purposes of this Part acquire houses, or buildings which may be made suitable as houses, together with any land occupied with the houses or buildings. Section 17 (3) of the Housing Act 1985 states that land may be acquired by a local housing authority for the purposes of this Part by agreement, or they may be authorised by the Secretary of State to acquire it compulsorily. As the proposed acquisitions will be by way of agreement no specific authorisation from the Secretary of State is required.
- 27 Appendix A to this report has been marked as exempt under Access to Information Procedure Rules 10.4 (3). The information contained in the Appendix 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 negotiation 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.

What are the key risks and how are they being managed?

- 28 The Council Housing Growth Programme is delivered using the Council’s agreed project management methodology. A programme risk log will be maintained and risks managed, monitored and escalate through the governance process as necessary.
- 29 Delivery of the proposals set out in this report will contribute to mitigating one of the Council’s corporate risks around the failure to meet additional housing supply targets and the consequent lack of homes for people in Leeds.
- 30 An initial risk assessment for the off the shelf acquisitions programme has identified the following risks, which are being managed at programme level and are not corporate risks at present:
 - a) **Property specification and climate emergency** – the Programme team will carefully assess the specification of any homes to be purchased to ensure that they support the Council’s activities to address the climate emergency and even decline to purchase, or seek to improve homes after acquisition, to ensure that achieve energy efficiency standards comparable with those being delivered in line with the Leeds Standard through the Council Housing Growth Programme.

- b) **Property values or acquisition terms** – the Programme team will take advice from colleagues in City Development and Legal Services to confirm that any proposed purchase prices agreed with developers are not in excess of the current market values of similar houses in the vicinity. Likewise, Legal Services colleagues will provide support to ensure that acceptable contract terms can be secured for the purchase of properties.

Does this proposal support the council's 3 Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

- 31 As part of the acquisition assessment, the Council considers the scale and type of housing need; how proposals can contribute towards supporting the Councils Best Council Plan (refer to sections 4 – 7 above) and its growth strategy.
- 32 The scale of housing need is great and, even though the Housing Growth programme is progressing well, and will start to hand over new homes at pace over the next couple of years, there is an inevitable lead time with new build. In the intervening period there are opportunities to secure some early wins through the acquisition of new build and off the shelf properties on development sites across the city.
- 33 It is important to note that where the Council acquires new build properties from a developer via this project, these will be in addition to the affordable housing provision already required by planning for the site, and will also ensure that these targeted acquisitions do not undermine our other programmes to promote regeneration and tenure diversification.
- 34 As the Council's substantial development programme gains more attention in the city and amongst developers, and through continued partnership working across the Council Housing and Regeneration services, we are forging new relationships and identifying new opportunities to deliver affordable housing for the city. Future opportunities could include a range of tenures including shared ownership and outright sale, as well as affordable rent.
- 35 This initiative provides a further opportunity for the Council Housing Growth Programme to support the Council's best city aspirations and to deliver regeneration objectives and much needed affordable housing, including in areas where there may be no land available for new build. The current opportunity detailed in **confidential Appendix A** is to buy seven properties for affordable rent to council tenants.

Options, timescales and measuring success

a) What other options were considered?

- 36 Alternative methods of acquiring property have been considered and are being utilised alongside these 'off the shelf' purchases, e.g. identify further sites for inclusion in the new build programme both in Council and private, buying ex Council / targeted homes, working with a range of partners to purchase more "off the shelf".

b) How will success be measured?

- 37 Success and achievements shall be measured against its contribution in supporting relevant Best City Priorities as set out in the Best Council Plan 2020 – 2025.
- 38 Against relevant Housing Growth programme objectives; and

39 Against specific “off the shelf” Housing Growth Acquisition programme service plan priorities.

c) What is the timetable for implementation?

40 The draft contract provided by the developer is currently being reviewed by the Councils team; subject to approval is ready to sign / seal.

41 The properties are expected to be complete and ready for occupation from quarter 4 / 2021 - quarter 2 / 2022

42 Properties shall be handed over to Housing Management for letting on the day of practical completion & in accordance with the Councils handover requirements – expected from quarter 4 / 2021.

Appendices

43 **Appendix A:** Confidential – Terms of Acquisitions

Designated as being exempt from publication under the provisions of Access to Information Procedure Rule 10.4(3)

44 **Appendix B:** Equality, Diversity, Cohesion and Integration (EDCI)

Background papers - none