

# Request for use of affordable housing commuted sums grant funding for use at Tower Works, Armley to assist in the delivery of a 100% affordable scheme of 50 new homes for social and affordable rent

Date: 24<sup>th</sup> May 2024

Report of: Head of Regeneration

Report to: Chief Officer Asset Management & Regeneration

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

This report requests approval for the use of up to £750,000 grant funding from the Council's affordable housing commuted sums budget to support the delivery of a 100% affordable scheme by Yorkshire Housing of 50 new affordable homes at the former Tower Works site in Armley for social and affordable rent.

## Recommendations

The Chief Officer Asset Management & Regeneration is requested to approve and grant authority to:

- a) The spend of affordable housing commuted sums grant funding up to £750,000 to support the delivery of a 100% affordable scheme by Yorkshire Housing's of 50 new affordable homes for social and affordable rent at the former Tower Works site in Armley and;
- b) For the Council to enter into a grant agreement and nominations agreement with Yorkshire Housing on the terms set out in this report.

## What is this report about?

- 1 This report seeks approval for the use of up to £750,000 affordable housing commuted sums (commuted sums) grant funding from the Council's pooled budget to support the delivery of a 100% affordable scheme by Yorkshire Housing of 50 new affordable homes at the former Tower Works site in the Armley ward (see site plan at Appendix 1). This scheme proposes to deliver 27 houses and 23 apartments for affordable and social rent.
- 2 The scheme is located on a brownfield site off Moorfield Road in Armley and is allocated for housing in the Council's adopted Site Allocations Plan. It is situated within an existing residential community close to facilities and with good public transport links. Previously housing the Tower Works factory, this site has been vacant for a number of years. Yorkshire Housing secured planning consent for the proposed scheme in March 2023.
- 3 The estimated total scheme costs for this project are included within Exempt Appendix 1. Yorkshire Housing have secured a mix of funding to support the delivery of the scheme, including Homes England Strategic Partnership grant and Recycled Capital Grant Fund. The use of commuted sums will bridge an identified viability gap and enable the delivery of the scheme as 100% Affordable Housing.
- 4 Commuted sums is a funding stream managed by the council, comprised of contributions paid by developers through s106 legal agreements related to planning approvals in lieu of the provision of Affordable Housing units on site, as per policy H5 of the Core Strategy. Commuted sums can be deployed by the Council through grants to eligible third-party organisations to support the delivery of more affordable homes, to increase the affordability of a scheme of new supply homes or to bring empty homes back into use as affordable housing.
- 5 Generally, the sums collected are unrestricted and can be spent anywhere within the Council's administrative area, although in some cases these funds are restricted to be spent within the ward or area in which they were generated. In some instances, through the planning process, Ward Members have expressed a preference for the sums to be invested in a particular way or in a particular locality. The Council has a strategic approach to the investment of Commuted Sums which includes new build developments and acquisition opportunities, particularly where this will leverage other funding and investment in affordable housing delivery. The intent to deliver a 100% affordable scheme at Tower Works would fall within the scope of use for commuted sums grant.
- 6 The delivery of a new supply of high-quality affordable housing in Leeds underpins the Leeds Best City Ambition to tackle poverty and inequality and improve the quality of life for everyone who calls Leeds home. This is also reflected in the Local Plan which sets out the housing need in the city and the importance of ensuring a sufficient housing land supply in appropriate locations alongside delivering the quality, type and affordability of homes in meeting local needs. To meet this housing need, the Leeds Affordable Housing Growth Partnership Action Plan 2022-2025 (LAHGPA) sets an ambition to deliver 1,230 affordable homes per year. To achieve this, the LAHGPA sets out an affordable housing pipeline that targets delivery of c.750 new affordable homes per annum over that period. This is being achieved via a combination of Registered Provider programmes, Council Housing Growth and Section 106 delivery.
- 7 Yorkshire Housing is one of the Council's Registered Provider partners on the Leeds Affordable Housing Framework with a strong track record of delivery in the city. Yorkshire Housing will be required to enter into a grant agreement with the Council to ensure that the grant funding is used for the proposed purpose and to include provisions to clawback funding if appropriate. As a condition of the Grant Agreement, Yorkshire Housing will also enter into a nominations agreement

whereby the homes would be made available to people in housing need through the Leeds Homes Register (100% of first lets and 60% of subsequent let of homes).

- 8 More detail on the risks and council security on the programme is provided within the body of the report.

### **What impact will this proposal have?**

- 9 The use of commuted sums at Tower Works will meet an identified viability gap to support the delivery of the 100% affordable scheme of 50 new homes by Yorkshire Housing and directly contribute towards achieving ambitions to deliver new affordable homes that are of the right quality, type and affordability. 18 of these will be available for social rent, the most affordable tenure and 32 for affordable rent. As outlined in the LAHGPAP, the delivery of new social rented homes plays a fundamental role in addressing housing need and in supporting those most in need in our communities.
- 10 The proposed scheme, which Yorkshire Housing secured planning consent for in March 2023, will deliver a mix of 23 apartments and 27 houses. This will be comprised of 7 no. 1 bedroom, 30 no. 2 bedroom, 11 no. 3 bedroom and 2 x 4 bedroom homes. This mixed of types and sizes is broadly in line with Policy H4 of the Core Strategy and would meet an identified local need. The Armley ward has a real housing need, with the Leeds Housing Register demonstrating the ward as having the 14<sup>th</sup> highest number of households in housing need in the city. The ward has significant need for one, two and three bedroom properties, with almost 40% of those on the register requiring two and three bedroom properties. Delivering a new stock of high quality, affordable homes on this site will directly contribute towards addressing the city-wide need for new affordable housing, contributing towards meeting the identified need in Armley.
- 11 The site is allocated for housing under Policy HG1 of the Local Plan, however, has been vacant and derelict for some time, having a negative effect on local amenity. The delivery of the scheme will bring this area of underused land within an existing residential area back into use to create a vibrant and thriving community where residents are close to existing services and facilities, providing a desirable place for people to live.
- 12 Yorkshire Housing has been successful in securing grant and loan funding to support the delivery of the scheme, details of which are set out in Exempt Appendix 1, however there remains an identified viability gap. A Red Book Valuation of the site was undertaken, however due to market conditions, high abnormal costs and the ambition to deliver a 100% affordable scheme, a lower than market price was agreed for the acquisition of the land. The Investment Appraisal has been prepared based this and on the proposed tenure split over a period of 36-years, which is in line with Yorkshire Housing's approved appraisal parameters. This compares with the application of a 40-year payback period to schemes included within the Council Housing Growth programme. Use of commuted sums to support this scheme will contribute towards meeting the viability gap and achieving Yorkshire Housing's approved target hurdle rates. This has been approved the requirements of the Homes England Grant funding.
- 13 Use of commuted sums here will therefore enable the delivery of the 100% affordable scheme with a high proportion of social rented homes, the most affordable tenure, in an area of high housing need. If commuted sums grant funding was not available, this will result in a funding gap, and may result in the affordability of the scheme decreasing.
- 14 An Equality Diversity Cohesion and Integration Screening Form is attached at Appendix 2 which confirms that a full Equality Impact Assessment is not required.

## How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 15 This scheme will contribute towards all the three pillars of the Best City Ambition by delivering new affordable homes with a mix of sizes and tenures for affordable rent with high thermal efficiency credentials which will contribute towards meeting housing need, support the creation of sustainable and thriving communities, have reduced heating demand, address risks of fuel poverty and reduce carbon emissions.
- 16 The Leeds Health and Wellbeing Strategy identifies that the 'quality, suitability and affordability of a person's home can make a big difference to their health and wellbeing'. The Tower Works scheme directly supports the priorities set out in this strategy by delivering houses that are affordable, warm, secure and support independent living, helping to promote Leeds as an 'age friendly city' with environment, transport and housing which promotes independence and social inclusion. The energy efficiency credentials of the homes will reduce their heating demands, making them more affordable for tenants to run. This will reduce the risk of fuel poverty and contribute towards good health and wellbeing.
- 17 In addition, all homes will be built to, or exceed, the minimum Nationally Designed Space Standards, with 30% built as accessible and adaptable dwellings to meet M4(2) of the Building Regulations and 2% to meet the requirements of wheelchair users under M4(3). This will ensure that the homes are of a quality and suitability that will be inclusive and promote good health and wellbeing for those who may have accessibility needs. This will also contribute towards supporting vibrant and mixed communities and the sustainable regeneration of this site and the wider area.
- 18 The proposal aligns with Leeds Inclusive Growth Strategy 2023-2030 (LIGS) ambitions, particularly in 'connecting and strengthening our communities' by building homes of the right type and quality in the right places and increasing the number of affordable homes. It also directly addresses ambitions to tackle 'poverty and inequality to improve people's lives' by delivering homes that support peoples' health and wellbeing to ensure that the circumstances in which people are born, grow, live and work, do not unfairly put their health at a disadvantage.
- 19 The scheme will also support leaning, training and employment opportunities in the city. Yorkshire Housing will require that the contractor provides one training or apprenticeship opportunity per £1m of work costs, which is monitored throughout the contract period. Contractors will also be encouraged to use local labour where possible which will directly contribute towards local employment opportunities and inclusive growth.
- 20 The proposal will also contribute towards meeting zero carbon ambitions as the homes will be constructed with high energy and thermal efficiency credentials which will improve their sustainability and reduce the cost to heat and run. The scheme proposes a fabric first approach towards energy efficiency with homes designed with enhanced thermal insulation levels to ensure a 30% reduction in CO2 emissions compared to the Target Emissions Rate Part L 2013, as required by Policy EN1 of the Core Strategy Selective Review. All properties will have SMART meters installed, be fitted with A rated gas boilers and hot water provided by combination boilers. This will make them more affordable for tenants and reduce the risk of fuel poverty, supporting the general health of tenants. The proposed scheme is sustainably located within an existing community with local facilities and good public transport links.
- 21 Due to space and viability constraints, the scheme does not propose any formal areas of on-site greenspace. However, it has been designed to include areas of soft landscaping within the public

realm including highway verge areas and front gardens. Existing mature trees along the boundaries of the site are to be retained and each house will also be provided with a large, usable and private rear garden area to allow for outdoor recreation and gardening activities.

### **What consultation and engagement has taken place?**

Wards affected: Armley

Have ward members been consulted?       Yes       No

- 22 The decision was advertised as a Key Decision on the forward plan from 1<sup>st</sup> December 2023 with a decision not to be taken before the 31<sup>st</sup> December 2023.
- 23 This proposal was considered and supported by the Council's Affordable Housing Delivery Board in November 2022.
- 24 Ward members have been consulted through the planning process and are supportive of the scheme.
- 25 The Executive Member for Housing was consulted in August 2023 and is supportive of this scheme being progressed with commuted sums funding support.
- 26 Legal and finance have been consulted and the legal implications and risks are set out below.

### **What are the resource implications?**

- 27 Financial support is requested from the Council's pooled Affordable Housing Commuted Sums budget which is confirmed as legal and appropriate for this scheme. Yorkshire Housing have secured securing grant and loan funding including through a Strategic Partnership with Homes England and Recycled Capital Grant fund to support the delivery of the scheme, details of which are explored in Exempt Appendix 1. Details of the grant contribution per unit, and proportion of total scheme costs is available in Exempt Appendix 1. This is line with other commuted sums grants previously approved, is considered good value for money and promotes leverage of other funds for the expenditure.
- 28 The quantum of commuted sums requested will ensure that Yorkshire Housing can address an identified viability gap and can deliver the scheme under the proposed tenure mix, which will maximise the number of social rented homes to be delivered on the site. This approach aligns strongly with ambitions to increase the number of social rented homes in the city.
- 29 Whilst the Council recognises that Yorkshire Housing has a record of delivery in the city, funds will be released in tranches to ensure that should the organisation not be able to deliver on the proposal or fail to conform to the conditions agreed, the grant agreement will require it to repay all or part of the agreement as appropriate.

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

- 30 A planning application (22/06250/FU) was approved in March 2023 and conditions have been discharged. Early preparatory work has started on site and, subject to confirmation of commuted sums funding, the scheme can progress on site.
- 31 The scheme's viability modelling is based on certain assumptions about the housing market and future movements in rents, which may not prove to be accurate. Should rents or housing prices

fall, or not rise in line with the applicant's assumptions, the investment payback period could be longer than predicted. However, this risk will lie with the applicant.

- 32 The scheme has been tendered via the applicant's procurement hub to achieve value for money and comply with procurement regulations. The standard employer's requirements will set any specified terms including the requirement to provide one apprenticeship or training placement per £1m of works costs.
- 33 Whilst the Council recognises Yorkshire Housing's strong record of delivery, a grant agreement will confirm funding release arrangements and should the organisation not be able to deliver on the proposal or otherwise fail to conform to the conditions agreed the grant agreement will require repayment of all or part of the grant as appropriate.

### **What are the legal implications?**

- 34 A legal agreement will be drawn up between the Council and Yorkshire Housing setting out the grant requirement and the nominations requirements.
- 35 The information contained within the Exempt Appendices of this report have been identified as exempt from publication because it relates to the financial or business affairs of particular parties (including the Council). This information is not publicly available from the statutory registers of information kept in respect of companies and charities. It is considered that since this information was obtained through the grant application process then it is not in the public interest to disclose this information at this time. Also, it is considered that the release of such information would or would be likely to prejudice the Council's financial interests in relation to other similar transactions. It is therefore considered that this element of the report should be treated as exempt under Access to Information Procedure Rule 10.4(3) The information is exempt if and for so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 36 The terms of affordable housing commuted sums source S106 agreements have been checked to ensure that there are no restrictions or limits on the use of the commuted sums used for the scheme.
- 37 The Council is permitted to award subsidies to third parties in line with the Subsidy Control Act 2022. Subsidy means where a public authority – for example central, devolved, or local government – provides support to an enterprise that gives them an economic advantage, meaning equivalent support could not have been obtained on commercial terms. This can take the form of a grant, a tax break, a loan, guarantee or equity investment on favourable terms, or the use of facilities below market price, amongst other kinds of support. The Council is required to assess any proposed financial assistance to ensure that it is consistent with the Subsidy Control Act 2022 and any application must only be granted if it is consistent with the principles in The Act. The Act also contains provision for public authorities to grant subsidies for Services of Public Economic Interest (SPEI). These are subsidies for essential services provided to the public that would otherwise not be supplied in an appropriate way or may not be supplied at all by the market. Within this, the regime also allows for exemptions for subsidies in specific cases, including for low value SPEI subsidies considered to constitute SPEI Assistance (SPEIA).
- 38 A Subsidy Control assessment has been undertaken of Yorkshire Housing's Affordable Housing Commuted Sums grant funding application. The proposed grant will be a subsidy governed by the Act. The grant provides for the provision of affordable housing and constitutes a Service of Public Economic Interest (SPEI). These are subsidies for essential services provided to the public

that would otherwise not be supplied in an appropriate way or may not be supplied at all by the market.

39 As the amount of public subsidy received by Yorkshire Housing over the past three financial years will exceed £725,000, the funding cannot be granted as SPEI Assistance. The request meets Subsidy Control principles outlined in the guidance and is to be recorded on the Government's Subsidy Control database.

40 This report is a Key Decision and is subject to Call In.

## **Options, timescales and measuring success**

### **What other options were considered?**

41 Complementary funding streams are already being utilised including Homes England Strategic Partnership funding, Recycled Capital Grant Funding and borrowing.

42 If commuted sums were not available, the scheme would not be able to progress with the proposed mix of affordable homes.

### **How will success be measured?**

43 Critical success factors will include the development of 150 much needed affordable homes to be delivered with 2024/25.

44 The scheme being occupied by Leeds residents through the Housing Register will also be a measure of success, along with resident and residents' family's satisfaction levels.

### **What is the timetable and who will be responsible for implementation?**

45 It is envisaged that 50 affordable homes will be delivered in 2024/25. Yorkshire Housing is responsible for delivery and reporting and monitoring in line with the grant agreement.

46 The following timescales are envisaged and will be set out in the grant agreement:

- Planning obtained – March 2023
- Early site preparatory work – October 2023
- Start on site – March 2024
- First commuted sums Grant Drawdown – June 2024
- 16 month build programme
- Practical completion – July 2025
- Final commuted sums grant drawdown – July 2025

## **Appendices**

- Appendix 1 – Location Plan Tower Works, Armley
- Appendix 2 – Equality, Diversity, Cohesion and Integration (EDCI) Screening
- Exempt Appendix 1 – Tower Works Programme Finances

- Exempt Appendix 2 - Draft Heads of Terms

### **Background papers**

- None