

Affordable housing commuted sums grant funding for a Registered Provider development at St Cecilia Street to assist in the delivery of a scheme of 78 new homes for social rent

Date: 30th July 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 £1,440,894 grant funding from the Council's affordable housing commuted sums budget to support the delivery of a development by Legal and General Affordable Homes (L&GAH) of 78 new homes for social rent at St Cecilia Street in the Little London and Woodhouse ward.

Recommendations

The Chief Officer Asset Management & Regeneration is requested to approve and grant authority to the following, subject to full planning approval and acquisition of the site being completed:

- a) The spend of affordable housing commuted sums grant funding up to £1,440,894 to support the delivery of a 100% affordable scheme by L&GAH of 78 new homes for social rent at St Cecilia Street in the Little London and Woodhouse ward and;
- b) For the Council to enter into a grant agreement and nominations agreement with L&GAH on the terms set out in this report.

What is this report about?

- 1 This report seeks approval for the use of up to £1,440,894 affordable housing commuted sums (commuted sums) grant funding from the Leeds City Council's (LCC) pooled budget to support the delivery of a 100% affordable scheme by L&GAH of 78 new affordable homes at St Cecilia Street in the Little London and Woodhouse ward (see site plan at Appendix 1). This scheme will deliver 78 new apartments for social rent.
- 2 The scheme is located on a brownfield site at St Cecilia Street within Quarry Hill. The site is 0.12 hectares and has been allocated in the Leeds Site Allocations Plan (SAP) as part of a wider allocation, MX2-23 for mixed-use development comprising new residential units and office floorspace. The site is located within the defined boundary of the City Centre and is close to facilities and good public transport links. The site was previously used as a surface level car park, however, it is now vacant.
- 3 The site was previously owned by LCC and was identified at Executive Board in July 2017 and November 2018, alongside others, as an opportunity for residential development with an enhanced level of affordable housing. Executive Board also established the principle of using commuted sums to facilitate these ambitions to deliver new affordable housing in and around the city-centre and that the preferred delivery route should be through a Registered Provider, although there would also be opportunities for council direct delivery.
- 4 Marketing of the St. Cecilia Street site, packaged with the site of the former Yorkshire Rider Club took place in September-December 2019. Bids were invited for schemes offering 100% affordable housing and bidders were made aware that funding could be available by the Council through Right to Buy monies and / or Commuted Sums to support this. The brief made it clear that offers and associated schemes would be evaluated based on the affordable housing tenure offering and mix, the level of funding required, compliance with planning policy and the financial offer for the land (based on Market Value). Bidders were made aware that preference would be given to Social Rent tenure.
- 5 L&GAH was successful in its bid to acquire the site at St Cecilia Street and submitted planning for the site in September 2022. Approval is anticipated in August 2024, with the Section 106 agreement currently being finalised. On 5 July 2024 the Chief Officer Asset Management & Regeneration gave approval to the final sale terms to enable completion of the sale to L&GAH.
- 6 L&GAH has requested the use of commuted sums in accordance with the principle established by Executive Board, to address an identified viability gap to ensure that the scheme can be delivered to create a 100% social rent scheme. The scheme will be delivered through a funding package as outlined in Exempt Appendix 1, including support through the Brownfield Housing Fund and Homes England Strategic Partnership.
- 7 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.
- 8 It should be noted that a planning policy compliant scheme on this site would achieve 7% affordable housing, delivering only six affordable homes of a total 78 units. The use of commuted

sums to support this scheme will lever in significant external funds through Homes England and Brownfield Housing Fund as set out in Exempt Appendix 1 to deliver a 100% affordable scheme.

- 9 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% social rent scheme at St Cecilia Street would fall within the scope of use for commuted sums grant.
- 10 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 grow delivery to meet identified annual need of 1,230 new affordable homes. To achieve this, the LAHGPA sets out an affordable housing pipeline that increases delivery to c.750 new affordable homes per annum over that period, from a 10 year average of c450. This is being achieved via a combination of Registered Provider programmes, Council Housing Growth and Section 106 delivery.
- 11 L&GAH is a Registered Provider (RP) with an ambitious plan for affordable housing delivery across England. Whilst L&GAH is relatively new to the affordable housing sector, it has a strong covenant as part of a major institutional funder and an ambitious national plan. The wider Legal and General group is heavily invested in Leeds and therefore has a long-term stake in the success of the city. L&GAH is a 'for profit' RP, but this status does not itself impact on the rent levels charged to tenants. Some recent press coverage has reported on concerns in relation to the rental element of shared ownership properties not being covered by the government rent cap. However, the social rent properties to be funded at St Cecilia Street are set through the Government's Social Rent formula and governed by the Government's rent standard.
- 12 L&GAH 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, L&GAH 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 for a period of 60 years).

What impact will this proposal have?

- 13 The use of commuted sums at St Cecilia Street will meet an identified viability gap to support the delivery of the 100% social rent scheme by L&GAH and directly contribute towards achieving ambitions to deliver new affordable homes that are of the right quality, type and affordability. The scheme will directly contribute towards achieving outcomes in the LAHGPA by delivering 78 new homes, all of which will be available for social rent, which is the most affordable tenure and is generally affordable to households on the lowest decile of earnings. As outlined in the LAHGPA, the delivery of new social rented homes plays a fundamental role in addressing

housing need and, alongside support services, is essential in addressing the most acute need evidenced through homelessness. The scheme will also align with the ambition outlined in the November 2018 Executive Board report to deliver new affordable housing in and around the city-centre on a site identified as appropriate for residential development with an enhanced level of affordable housing.

- 14 The Little London and Woodhouse ward has real housing need, with the Leeds Housing Register (LHR) demonstrating that the ward has the third highest number of households in housing need in the city, with a significant need for one and two bedroom properties. Pending planning consent, the scheme will deliver 46 no. 1 bedroom, 28 no. 2 bedroom and 4 no. 3 bedroom apartments. Whilst this is not in line with Policy H4, demand from the LHR demonstrates that this mix will meet an identified need. Plans Panel has supported this position and deferred and delegated approval on this basis.
- 15 L&GAH has been successful in securing grant and loan funding from other sources, details of which are set out in Exempt Appendix 1, however there remains an unfunded viability gap of £1,440,894. Use of commuted sums here will therefore address this viability gap to enable the delivery of the scheme to deliver 100% social rented homes in an area of housing need. Draft Heads of Terms for the legal grant agreement are set out in Exempt Appendix 2.
- 16 L&GAH will also be required to enter into a nomination agreement to ensure the Council will receive 100% nomination rights for first lettings and 60% on subsequent lettings. This will be administered and managed by Housing Leeds.

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

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 17 This scheme will contribute towards all three pillars of the Best City Ambition by delivering new affordable homes for social rent with high thermal efficiency, reduced heating demand, reduce carbon emissions and address fuel poverty, alongside contributing towards meeting housing need and supporting sustainable and thriving communities.
- 18 The site is within the Little London and Woodhouse ward, which is among the most deprived in the city, ranking highly in terms of unemployment, deprivation, poor health and income. Delivery of the scheme here will ensure that a current vacant and brownfield site is brought forward in a highly sustainable location, contributing towards supporting vibrant and mixed communities and the regeneration of this site and the wider area. It will also contribute towards meeting housing need in the ward, which has over 2,200 households on the LHR. All the properties will be available for social rent, the most affordable tenure which will directly contribute towards addressing those most in need.
- 19 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'. Difficulty paying the rent or mortgage can cause stress, affecting mental health, while spending a high proportion of our income on housing leaves less for other essentials that influence health, such as food and social participation. Energy efficiency measures within the St Cecilia Street scheme aim to minimise fuel poverty and promote good physical and mental health.
- 20 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.

- 21 The development will contribute to LIGS ambitions by seeking to maximise employment and training opportunities. The Section 106 agreement sets out expectations that Leeds Employment and Skills Service will be notified of any employment and training opportunities so that they can be promoted to Leeds residents.
- 22 The scheme will contribute towards zero carbon ambitions by regenerating a previously developed city centre site to provide high quality and sustainable affordable housing. L&GAH are committed to a sustainable and low energy scheme to reduce running costs for tenants through a fabric first approach. Sustainable measures that will be incorporated into the scheme include connecting to the Leeds PIPES District Heating Network, low energy lighting and low water consumption taps, toilets and showers.
- 23 An Equality, Diversity, Cohesion and Integration (EDCI) screening has been completed for this application and is available at Appendix 2.

What consultation and engagement has taken place?

Wards affected: Little London and Woodhouse

Have ward members been consulted? Yes No

- 24 The decision was advertised as a Key Decision on the forward plan from 21st December 2023 with a decision not to be taken before the 19th January 2024.
- 25 Engagement has taken place regarding the scheme with the ward members in Little London & Woodhouse including email correspondence. The Executive Member for Housing was consulted 5th February 2024 and is supportive of the scheme.
- 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 from the Council is requested from the pooled affordable housing commuted sums budget which is confirmed as legal and appropriate for this scheme. The cost per property and the proportion of total scheme costs are outlined in Exempt Appendix 1. These costs are slightly higher than the average of recent commuted sums approvals. However, it is recognised that the site is highly constrained, and it is positive to note that all 78 units are proposed for social rent – the most affordable tenure. L&GAH has confirmed that it has secured the remaining sums required through grant and loan funding.
- 28 The quantum of commuted sums requested will ensure that L&GAH addresses an identified viability gap and can deliver the scheme with all properties available for social rent. This approach aligns strongly with ambitions to increase the number of social rented homes in the city. Without the spend of commuted sums, the scheme could not proceed as planned and the quantum of social rented properties would reduce.

29 Whilst the Council recognises that L&GAH has a record an ambitious national affordable housing delivery plan as well as a demonstrable and strong commitment to investment in Leeds, funds will be released in tranches. This will ensure that should the organisation not be able to deliver the scheme, or fail to conform to the conditions agreed, the grant agreement will require L&GAH to repay all or part of the commuted sum grant as appropriate.

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

30 L&GAH has an ambitious plan for delivery nationally, backing a fast-growing pipeline of 25,000+ affordable homes over the next five to ten years.

31 The main risk of any grant funding is that the funder loses some control of the funds. If approved, L&GAH will be obligated to enter into a grant agreement with the Council before any funding is to be released. The terms of the grant agreement will outline that:

- a) The grant funding will be released in tranches with 10% of the grant available to draw down upon start on site, and the remaining 90% available to be drawn down upon practical completion.
- b) The grant agreement will permit L&GAH 20 months to draw down any available grant money. The Council reserves the right to extend this long stop date.
- c) L&GAH enters into a Nominations Agreement with the Council to grant nomination rights over who occupies the social rented properties.
- d) The Grant Agreement will also require that L&GAH seeks the Council's consent before selling the properties and ensure that any new owner also enters into a Nominations Agreement with the Council.

32 Progress monitoring will be submitted bi-annually against agreed milestones. Ultimately, if performance is unsatisfactory or does not meet the agreed milestones, the grant agreement will provide for the Council to withhold any further grant funding and request repayment of any funding already provided.

What are the legal implications?

33 A legal agreement will be drawn up between the Council and L&GAH setting out the grant requirement and the nominations requirements.

34 The information contained within Exempt Appendix 1 and Exempt Appendix 2 of this report has 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.

35 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).

36 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. A Subsidy Control assessment of LAGH's application has been undertaken and Legal Services have confirmed that the proposed funding complies with Subsidy Control principles. Subject to approval, the grant is to be recorded on the Government's Subsidy Control Transparency Database.

37 This is a Key Decision and is subject to Call In.

Options, timescales and measuring success

What other options were considered?

38 There are currently no other proposals for this site and the current proposal is as endorsed by Executive Board in 2017.

39 If commuted sums were not available to support this scheme, it is likely that L&GAH would be unable to obtain the additional finance required, and the scheme would not be viable under the proposed tenure mix. Use of commuted sums is therefore addressing an identified viability gap and will support the scheme coming forwards to deliver a 100% affordable housing scheme of social rented units, contributing greatly to ambitions to increase the number of social rented homes in Leeds.

How will success be measured?

40 Critical success factors will include scheme implementation within the timeframes set out or within a reasonable tolerance approved by the Council. Success will include the delivery of the proposed scheme within budget, utilising commuted sums, Homes England and West Yorkshire Combined Authority grant funding and L&GAH financing.

41 As set out in the Section 106 agreement, the Council's Employment and Skills service will be advised of any local employment and training opportunities through the construction or operational phases.

42 Success will also include the scheme being fully occupied upon completion with Leeds residents on the Housing Register, along with resident and residents' family's satisfaction levels which will be collated by L&GAH.

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

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

- a) Planning Approved – August 2024
- b) Site acquisition – September 2024
- c) Start on Site – December 2024
- d) First commuted sums Grant Drawdown – December 2024
- e) Practical completion – July 2026
- f) Final commuted sums grant drawdown – July 2026

Appendices

Appendix 1: St Cecilia Street site plan

Appendix 2: Equality, Diversity, Cohesion and Integration screening

Exempt Appendix 1: Scheme Finance summary

Exempt Appendix 2: Heads of Terms

Background papers

- None