

MUNICIPAL YEAR 2016/2017 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF:

Cabinet Member for Housing &
Housing Regeneration and Cabinet
Member for Finance & Resources

REPORT OF:

Director – Regeneration &
Environment

Agenda – Part: 1

KD Num: 4268

Subject:

Utilising the 2016/2017 Affordable Housing
Capital Programme to Support Christian
Action to Acquire a Mix of 27 Dwellings for
Affordable Rent.

Wards: All

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EXECUTIVE SUMMARY

- 1.1 The Cabinet Report KD 3932 set out a number of proposals to ensure the Borough complied with the Government's Right to Buy (RTB) One for One replacement scheme.
- 1.2 A key recommendation, in paragraph 2.5 of the report, was to agree details of a scheme to grant fund registered provider partners, to deliver new affordable housing.
- 1.3 The Council has been working with Christian Action Housing Association, (CAHA) to explore the viability of using RTB receipts to fund the acquisition and renovation of up to 27 properties currently used as temporary housing with a view to converting them to permanent affordable rented accommodation.
- 1.4 This report seeks capital expenditure of £2,166,300 from the remaining indicative 2015/2016 Affordable Housing Capital Programme budget which totals 2.529m, to fund the scheme agreed jointly with CAHA. It should be noted that this can be funded through the Government's "RTB One for One Replacement Scheme".

2. RECOMMENDATIONS

- 2.1 That the Cabinet Member for Housing & Housing Regeneration and Cabinet Member for Finance & Resources approves expenditure of £2,166, 300 from the 2015/2016 Affordable Housing Capital Programme, (see paragraphs 3.5, 3.6 and 3.7), noting that this sum will be fully funded from "RTB One for One Replacement Receipts".

3. BACKGROUND

- 3.1 On 11th March 2015, Cabinet approved a range of short to mid-term schemes to maximise the Council's ability to spend receipts generated from right to buy sales and at the same time limit the likelihood of returning them to central Government.
- 3.2 A report to Housing Board on 14th October 2015 noted that despite raising awareness amongst our registered provider partners about the possibility of the Council granting them funding from right to buy receipts, (RTB) to support development of new affordable housing there has only been minimal interest from them. To date, only CAHA has shown any interest in submitting proposals for the Council's consideration.
- 3.3 In January 2016, CAHA met with the Council to discuss the possibility of using RTB receipts to acquire up to 27 dwellings they were leasing in Enfield as temporary housing. It is to note that these dwellings are occupied temporarily by households the Council has a statutory obligation to house.
- 3.4 CAHA proposes to purchase the freehold interest of these dwellings and has asked the Council to help facilitate this by providing RTB receipts to part fund acquisition costs. Subject to acquisition, the dwellings would be renovated and brought back into use as permanent, affordable rented accommodation to which the Council would be granted 100% nomination rights, in perpetuity.
 - 3.4.1 It is to note that RTB grant would not only enable CAHA to purchase the dwellings but also allow them to charge a lower rent than current temporary accommodation charges. This will generate savings to the Council of 29% on the current cost of temporary accommodation managed by CAHA, (see Table 3.4.4 below).
 - 3.4.2 A further benefit of using this funding is that the Council would be able to recoup its capital outlay of £2,166, 300 from the savings generated from lower weekly temporary accommodation charges. Using annual savings of £119, 549, or 29% on current weekly TA costs, (see Table 3.4.4 below), as a basis, the Council would get its money back in 18.2 years.

Table 3.4.3

Current Temporary Accommodation Costs v Proposed CAHA Affordable Rents

Current Weekly TA Charge per Bedroom £	Anticipated Weekly CAHA Affordable Rent including service charge	Saving to Council
2bed 247.90	185.00	62.90
3bed 310.00	215.00	95.00
4bed 375.00	225.00	150.00
Total		
£406,328 pa.	£286,780 pa	£119,548 pa

NB. Rents for 3 bed properties, which form the majority i.e. 59%. of properties to be purchased, will be lower than the "London Living Rent", (LLR) proposed by the Mayor of London". Although details have yet to be announced it is anticipated the LLR will be based on a third of median income for London. As of July 2015, this was £51,770, (GLA Household Income Estimates).

- 3.5 The 27 dwellings CAHA would like to purchase comprise the following mix: 10 x 2B4P; 16 x 3B5P and 1 x 4B6P. The majority, i.e. 17, are located in EN3 and 7 in EN1. The remainder are dispersed within the Borough boundary in N11. Subject to the award of funding CAHA proposes to charge the following affordable rents (2B4P @ 70% market rent; 3B5P @ 60% market rent and 4B6P @50% market rent.
- 3.6 The dwellings are currently owned by a 3rd party GAMMA Ltd and leased to CAHA. CAHA has agreed an acquisition cost of £7,140,000. With on costs, the total would be £7,221,000. 30% of this equates to a grant of £2,166, 300 or £80, 233. per dwelling. Subject to funding CAHA proposes to complete acquisition of all 27 dwellings in May. To that end, officers recommend that approval for funding be granted well in advance of this.
- 3.7 CAHA will enter into a legal agreement with the Council to secure delivery of new affordable homes and protect the Councils interests in relation to the funding. A clause has been inserted in the agreement to ensure recovery of the grant if CAHA has been overpaid, or if they fail to complete acquisition, or renovation as outlined.

- 3.8 The remaining indicative funding in the 2015/2016 Affordable Housing Capital Programme budget totals £2.529m. £2,166, 300 however, is required now to fulfil the Council's commitment to part fund acquisition as outlined in paragraph 3.6 above.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 If the Council chooses not to utilise this expenditure it will not only have to return the receipts to central Government but also pay a punitive rate of interest, currently @4.5% pa.

5. REASONS FOR RECOMMENDATIONS

- 5.1 The movement away from temporary, to more permanent accommodation helps to meet a key Council objective i.e. to develop and sustain healthy balanced communities.
- 5.2 Market testing has been undertaken which identified no interest by RP's with schemes that can be funded using RTB receipts.
- 5.3 It is to note that no other RP is managing properties as temporary accommodation on behalf of the borough.
- 5.3 If approved the funding will;
- increase the portfolio of permanent rented accommodation in the Borough
 - assist the Borough in discharging its statutory duties to households on the housing waiting list and living in temporary accommodation
 - reduce disruption to families and schools by keeping families in settled accommodation.
 - ensure the Borough retains 100% nomination rights to a mix of 27 dwellings
 - assist the Borough in meeting its temporary accommodation reduction target

6. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES, AND OTHER DEPARTMENTS

6.1 Financial Implications

As described in the report, the proposed grant of £2,166, 300 represents 30% of the total cost of the CAHA scheme and the Council's contribution will be 100% funded from "RTB One for One Replacement" receipts - no borrowing will be required.

The Council always proposed to work with local Registered Providers to comply with the Government's scheme, as this means that the required 70% match funding is raised outside of the HRA. There are

not enough resources in the HRA to match fund all of the RTB One for One Replacement receipts raised to date, so a scheme such as the one proposed in this report not only helps the Council increase housing supply in the Borough and avoid expensive Temporary Accommodation costs, but also avoids repayment of RTB One for One Replacement receipts to Central Government, along with additional interest.

An agreement will be put in place to ensure that the expenditure incurred by CAHA complies with all of the requirements of the RTB One for One Replacement scheme so that this proposal satisfies any audit requirements.

Claw back provisions are also included in the agreement to ensure

There is sufficient indicative funding in the 2015/2016 Affordable Housing Capital Programme budget available to fund this scheme.

6.2 Legal Implications

- 6.2.1 The proposed agreement to be put in place between LBE and CAHA (as referred to in para 6.1 of the report) would be deemed a public contract with reference to the Public Contracts Regulations 2015 (" the Regulations "), is in excess of the relevant EU threshold (£164,176) and therefore with reference to the Regulations, ought to be put out to tender, unless any exemptions apply.
- 6.2.2 The only exemption relevant or applicable in this instance, is the award to a particular provider where they are the only provider in the market capable of meeting the requirements encapsulated within the contract awarded. In order for this direct award of this RTB grant/contract not to be open to challenge, CAHA would have to be shown to be the only provider in the market capable of providing the required (RTB grant) services as laid out. On the face of it, this does not appear to be the case, and therefore as it stands, the award of the RTB grant to CAHA in the manner proposed, would be open to legal challenge from anyone perceiving that they have suffered a disadvantage by way of the actions of LBE, awarding the RTB grant/contract in this manner.
- 6.2.3 The challenge, in all likelihood, would come from those other Providers in the market who can legitimately show they could also provide the services required. A successful challenge could have the contract set aside, and the Council forced to pay damages to the successful challenger (based on loss of profits that would have been secured had the challenger been awarded the contract).
- 6.2.4 In light of the above, the choice is therefore: to progress the award of the RTB grant to CAHA in the manner proposed, and run the risk of a legal challenge and/ or judicial review, or award the RTB to CAHA as a

preferred bidder, who has emerged as a preferred bidder, from a prior compliant procurement process run by the Council.

6.3 Property Implications

It is proposed that the Council's only interest in the properties would be contracted nomination rights in perpetuity.

7. KEY RISKS

- 7.1 If the Council does not do this there is a risk that it could fail to meet its temporary accommodation reduction target.
- 7.2 There is also a significant risk to the Council's reputation if it fails to provide suitable accommodation to some of the most vulnerable households in the community.
- 7.3 There is a risk of entering into a partnership arrangement with an organisation that could cease trading. To mitigate this risk, the Council could seek to procure professional technical resources to deliver the project itself.
- 7.4 There is a possibility of the RTB receipts not being spent within the specified timeframe. To mitigate this risk, the Council will enter into a grant funding agreement with CA which would include a long stop date that is up to 3 months in advance of the final RTB payment deadline date.
- 7.5 This proposal provides a great opportunity for the Council to use RTB receipts in a new, innovative way. If successful, this award has the potential to be rolled out across the Borough.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The diverse mix of dwellings and plans to bring them into use as permanent rented accommodation will maximise the supply of affordable housing in the Borough, providing more opportunities for people in Enfield to access homes they can afford.

8.2 Growth and Sustainability

Supporting the acquisition of housing with a view to converting it to permanent rented accommodation will enable the Council to increase the portfolio of stock it has to discharge its statutory housing responsibility to households that live in the Borough.

8.3 Strong Communities

Developing good quality housing in areas where people desire to live will help to create and maintain strong sustainable communities.

9. EQUALITIES IMPACT IMPLICATIONS

This proposal will be subject to an Equalities Impact Assessment. However, providing good quality, affordable housing within the Borough is targeted at those most in need of a home and least able to afford property on the open market.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

- 10.1 This proposal will increase the portfolio of stock that is available to assist the Council to discharge its statutory housing obligations i.e. supporting those in temporary accommodation seeking permanent and assisting with decanting of households directly affected by the Councils regeneration proposals.
- 10.2 The acquisition of this housing will be subject to strict performance management to ensure that timelines are adhered to and the Council's ability to retain RTB receipts maximised.

11. HEALTH AND SAFETY IMPLICATIONS

All properties owned and rented by Enfield are subject to rigorous health and safety checks as a matter of course.

12. PUBLIC HEALTH IMPLICATIONS

The provision of safe, clean affordable housing has a clear connection to individuals' health and wellbeing. Providing renovated affordable rented housing as proposed in this report will have a positive impact on Public Health.

Background Papers

Cabinet Report: "Operation of the Government's Right to Buy (RTB) One for One Replacement Scheme" 11th March 2015.

Housing Board: "Update on Enfield's Operation of the Government's Right to Buy (RTB) One for One Replacement Scheme". 14th October 2015