

MUNICIPAL YEAR 2017/2018 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF:
Cabinet Member for Housing & Housing Regeneration in consultation with Cabinet Member for Finance and Efficiency.

REPORT OF:
Executive Director – Regeneration and Environment and the Executive Director – Finance, Resources & Customer Services

Agenda – Part: 1	KD Number: 4658
Subject: Entering into agreement with Origin HA to provide a mix of 7 new dwellings for affordable rent.	
Wards: All	

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1. EXECUTIVE SUMMARY

- 1.1 The Council has set aside a total of £15.1m of right to buy receipts, to be utilised by RP's by March 2020. Under Phase 1, the Cabinet Member for Housing & Housing Regeneration and Cabinet Member for Finance and Efficiency approved funding of £3.4m. This amount was reduced to £2.4m following withdrawal of two of the bids.
- 1.2 Report KD 4573 recommended any future decisions to authorise funding and entry into legal agreements, be delegated to the Executive Director - Regeneration and Environment and the executive Director of Finance, Resources & Customer Services respectively.
- 1.3 This report recommends the Council awards grant funding totalling, £784,700, to Origin Housing Association and enters agreement with them on the terms of its use and on the respective roles and responsibilities of each party.

2. RECOMMENDATIONS

It is recommended that the Cabinet Member for Housing & Housing Regeneration and Cabinet Member for Finance and Efficiency:

- 2.1. approve the award of RTB One for One replacement funding totalling £784,700 to Origin Housing Association, (OHA) to part fund development of seven dwellings for affordable rent as provided at Appendix 1 and enter into grant funding agreement.

3. Background

- 3.1 In October 2017, report KD 4573, reported on the outcome of grant awards approved as part of round one submissions. The report also recommended and authorised changes to the grant submission process to maximise future grant expenditure under round two.
- 3.2 In addition, the decision to make future awards of funding and enter into grant funding agreements with recipients, has been delegated to the Executive Director - Regeneration and Environment and the executive Director of Finance, Resources & Customer Services respectively.
- 3.3 Following approval of the above report the Council wrote to all the registered providers who own and manage stock in the borough. This was to advise a second round of grant funding had been launched and that changes had been introduced to make the grant more attractive to registered providers and to speed up the decision-making process. In addition, under round two, grant funding would be made available on a continuous market engagement basis, thereby giving providers' flexibility to submit claims as and when they are ready for consideration.
- 3.4 This report focuses solely on OHA's £784,700 bid for grant funding to provide seven, affordable homes for rent as part of their development at 109 Station Road. This equates to a grant of £112,100 per dwelling, (see Table 1, **Origin Housing Association Bid Summary**, in paragraph 3.4.1 below).

3.4.1 Table 1, Origin Housing Association Bid Summary

Registered Provider	Grant Amount £	Number of Dwellings	Average Grant per Dwelling £	Anticipated Start Date	Anticipated Completion Date
Origin	784,700	7	112,100	December 2017	December 2019

3.5 Assessing Origin HA's Bid

- 3.5.1 Following on from round one, officers wrote to all providers providing detailed information, including guidance together with scores, on how bids would be evaluated. Officers also confirmed the Council would prioritise proposals that demonstrated the ability to meet the assessment criteria outlined in Table 2, paragraph 3.5.2 below), **Assessment Criteria and Scoring System** below:

3.5.2 Table 2: Assessment Criteria and Scoring System

Criteria	Scoring System
Strategic Fit	1 – 5
Deliverable	1 – 5
Value for Money	1 – 5
Affordability for local residents'	1 – 5
Accessibility	1 – 5
Maximum Score	25

3.5.3 OHA's responses were reviewed against each criterion and a total score applied to each to arrive at an overall score. To arrive at a final overall score three officers separately reviewed OHA's bid and applied a scoring system of between 1 – 5 for each criterion. The breakdown and explanation for each is as follows;

- 1 = A few good points but main issues missing. No explanation
- 2 = Some points covered, not all relevant. Some examples given
- 3 = Some points covered. Relevant information given. Some examples given
- 4 = Good answer. Relevant information. All or most points covered. Good examples
- 5 = Perfect answer. All points addressed. All points relevant. Good examples

3.5.5 In assessing OHA's bid it is noted they have already secured planning consents, are in contract with a developer and due to start on site in the next few months. They also advised insolvency of the previous contractor, site constraints and resultant additional costs, increased development costs above the Borough average.

3.5.6 OHA's bid achieved an average overall score of 16 out of maximum of 25. Assessment scores for each criterion are outlined in detail in Table 3, **Origin Housing Association Bid Assessment Scores**, paragraph 3.5.7 below.

3.5.7 Table 3, Origin Housing Association's Bid Assessment Scores

	Strategic Fit	Deliverability	Value for Money	Affordability to Local Residents'	Accessibility	Total
Officer 1	3	5	3	3	2	16
Officer 2	1	4	3	4	3	15
Officer 3	2	4	4	2	4	16

3.6 Entering Legal Agreement

- 3.6.1 Grant awards are provisional and payment is subject to entering agreement with prospective recipients on the terms of its use and our respective roles and responsibilities.
- 3.6.2 Officers have now finalised negotiations with OHA and recommend the Council enters agreement with them to enable defraying of expenditure and facilitate delivery of new affordable housing as outlined in their bid. In keeping with the new provisions for round two 100% of the grant will be payable to OHA on signing the agreement.
- 3.6.3 OHA will be required to enter into a binding grant funding agreement with the Council prior to the release of the grant, obliging them to repay in full, (in case of delay in repayment, interest will accrue), the total amount of the funding as initially transferred under the agreement.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council could choose to do nothing. If this course of action was adopted the Council would not be able to fulfil its duty to provide affordable housing for rent and utilise this expenditure as agreed.
- 4.2 It will not only have to return the receipts to Central Government but also pay interest, currently at 4% above the base rate compounded, from the time the receipt was generated.

5. REASONS FOR RECOMMENDATIONS

- 5.1 The Council's Housing Strategy requires 798 new homes to be built each year.
- 5.2 If approved the funding will;
- increase the portfolio of affordable rented accommodation in the borough and available to the Council
 - assist the Council to discharge its statutory duties to households on the housing waiting list and those living in temporary accommodation
 - ensure the Council retains 100% nomination rights to a mix of 70 affordable rent dwellings
 - make this scheme potentially more attractive to prospective RP's and encourage them to submit bids for grant funding
 - achieve the Council's objectives not to return receipts to the Department of Culture and Local Government.

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

6.1 Financial Implications

6.1.1 The latest Right to Buy One for One Replacement Scheme monitoring (July 2017) and the current HRA Business Plan both contain assumptions that £0.4m will be granted to RP's in 2017/18, with a further £4.3m granted in 2018/19. Previously, the RP's to whom these grants will be made had not been identified. This increases the 2018/19 RP funding to £4.7m. Work will need to continue to ensure that the remaining unallocated resources earmarked for RP's are taken up and utilised to avoid any repayment to Central Government.

6.1.2 The granting of these sums to RP's means that they are required to match fund the grant sums with a 70% contribution from their own resources. This means that the Council does not have to find the 70% match funding from within its HRA. The latest version of the HRA Business Plan demonstrates that the HRA could not afford to match fund these sums.

6.1.3 The grants will be made from the Council's General Fund Capital Programme (Scheme C380143), with the corresponding capital receipts transferred to fund them.

6.2 Legal Implications

6.2.1 S.111 Local Government Act 1972 ("LGA") gives a local authority power to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of its functions.

6.2.2 S. 112 LGA permits the appointment of such officers that the Council deems necessary for the discharge of its functions. The proposals set out in this report are consistent with this power.

6.2.3 Under s.8 Housing Act 1985 ("HA") the Council as local housing authority has a duty to keep under review the provision of housing in its area, and has power under s.9 HA to provide housing accommodation through erecting or acquiring houses. Local authorities also have a general fiduciary duty to Council Tax payers and must therefore take whatever is the overall most reasonable and cost effective course of action in order to deliver best value from land owned by them.

6.2.4 S.1 Localism Act 2011 permits the Council to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. Creating stronger communities and addressing current housing needs are key priorities for the Council.

6.2.5 As mentioned in KD4573, provided that the:

- (a) evaluation criteria used to award the grant allocations to the organisations have been consistently and fairly applied and the;
- (b) competition process utilised was in accordance with the principles of the Council's Contract Procedure Rules ("CPRs") and the overarching EU Treaty Principles

then, despite the grant allocations being arguably able to be deemed public contracts (under the *Public Contracts Regulations 2015* ("PCRs") and having values above the applicable EU threshold £164,176 (whereby an OJEU notice would be appropriate unless an exemption applies), the award of the grant allocations should present a low level of risk to the Council going forward, given that the awardees themselves are representative of the very organisations who could constitute possible challengers (were they not awardees in this instance).

- 6.2.6 With reference to any challenge to the awards, based on the PCRs: if challenged, as long as the Council in this instance, can point to a transparent, and fair (if limited) competition process, there should be a low level of risk of any successful challenge being brought under the PCRs.
- 6.2.7 Not having gone out to OJEU in these circumstances, it must be borne in mind that there is always the possibility of any registered provider who feels they may have been unfairly excluded from the selection of RP's who were chosen to be invited to express an interest, bringing a challenge to the awards - though that risk is low, given that the current awardees themselves represent the possible range of challengers that could be expected to come forward).
- 6.2.8 All risks associated with the amount and time of payment of the grant have been mitigated by the robust 'claw back' clauses contained within the grant funding agreement, which is to be signed between the RP and the Council.
- 6.2.9 Any resultant legal agreements, including the grant funding agreement, must be in a form approved in advance of commencement by the Assistant Director of Legal and Governance Services.

6.3 Property Implications

- 6.3.1 It is proposed that the Council's only interest in the properties would be contracted nomination rights in perpetuity. If the Registered Provider decides to divest from the assets to which the grant was applied, and this occurs during the Agreement's term, grant funding will need to be clawed back from the Registered Provider against a formula set out in the Grant Agreement.
- 6.3.2 As the Council will only have nomination rights, Corporate Landlord liabilities will rest with the Registered Providers who will need to ensure these properties are statutory compliant.

- 6.3.3 The management of this Programme will be undertaken by the Housing Development and Estate Renewal Team, and Housing Management will need to put in place a monitoring programme to satisfy the Council that the Registered Providers are compliant with appropriate legislation.

7. KEY RISKS

- 7.1 If the Council does not do this there is a risk that it could fail to meet its statutory obligations to households on the housing register.
- 7.2 There is a possibility of the RTB receipts not being spent within the specified timeframe. If this were to happen the Council would not only have to repay any unspent amounts but also pay interest of 13.5%.
- 7.3 To mitigate this risk, the Council will enter a grant funding agreement with successful grant recipients which would enable a swift draw down of grant. Payment will be 50%, up front, on signing the agreement and 50% per dwelling, thereafter, on completion.
- 7.4 This arrangement will allow grant to be drawn down within new prescribed deadlines thereby reducing the possibility of returning unspent amounts with interest to the DCLG.
- 7.5 The grant agreement will include a rigorous and robust claw back arrangement to ensure repayment of grant in the event of default.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The diverse mix of dwellings and plans to bring them into use as affordable 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 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

The Council recognises that providing good quality, affordable housing within the Borough helps those most in need of a home and least able to afford property on the open market.

A scoping Equalities Impact Assessment, (see Background Documents) has been completed. This highlights benefits to clients in protected groups such

as those with disabilities, ethnic minorities, elderly persons and single pregnant women.

No specific negative impact has been identified.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

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.

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

Equalities Impact Assessment

Schedule 1

Agreed Development Details including Milestones

Details of the proposed Affordable Housing Units to be acquired:

No. of Dwellings	Type of Dwelling	No. of Beds & Persons	Habitable Rooms per Dwelling	Internal Floor Area (sqm)	Fully Wheelchair Accessible	Tenure
1	FLAT	2B4P	3	80	N	Affordable Rent
1	FLAT	2B3P	3	81	N	Affordable Rent
1	FLAT	2B3P	3	77	N	Affordable Rent
1	FLAT	1B2P	2	51	N	Affordable Rent
1	FLAT	1B2P	2	51	N	Affordable Rent
1	FLAT	1B2P	2	52	N	Affordable Rent
1	MAISONETTE	3B4P	4	110	Y	Affordable Rent
TOTALS:	7	20	19			

Agreed Milestones:

Milestone №1- (Payment Date)- Following duly execution, on exchange of executed copies of this Funding Agreement and upon the receipt of a Claim for 100% of the Agreed Funding in compliance with Clause 4.3, but no later than 1 week from the duly execution of the Funding Agreement

Milestone №2- The Agreed Development has achieved Start on Site by 31st January 2018

Milestone №3- Upon delivery of the Agreed Development and full compliance with clause 7.3,8 by 31st March 2020

3. The Council acknowledges and agrees that on or following the Payment Date the Recipient shall be entitled to submit a Claim for 100% of the Maximum Agreed Funding, in compliance with Clause 4.3, provided always that the amount stated in the Claim shall not exceed the Maximum Agreed Amount.

Maximum Agreed Amount

£ 784,700 (seven hundred eighty-four thousand seven hundred pounds), anticipated as at the date of this Agreement

Enfield Council Predictive Equality Impact Assessment/Analysis

NB if there is likely to be an impact on different groups of staff as a result of this proposal, please also complete a restructuring predictive EQIA form

Department:				Service:	
Title of decision:	Utilising the Government's One for One Replacement Receipts to Provide Grant Funding to Registered Provider Partners to Deliver New Affordable Housing.			Date completed:	
Author:	Owen Plummer			Contact details:	X5567.
1 Type of change being proposed: (please tick)					
Service delivery change/ new service/cut in service	Policy change or new policy	Grants and commissioning	Budget change		
2 Describe the change, why it is needed, what is the objective of the change and what is the possible impact of the change:					
Some items in this report have previously been considered. In terms of proposed new changes paragraphs 3.4.- 3.7 highlight the following;					
Acquiring the rented elements of s106 sites					
Providing funding for small sites					
Exploring the viability of supporting out of Borough provision in adjoining districts					
Speeding up the decision making process					
3 Do you carry out equalities monitoring of your service? If No please state why?					

If Yes answered to questions 3-6 above – please describe the impact of the change (including any positive impact on equalities) and what the service will be doing to reduce the negative impact it will have.

We know there is an over representation of protected groups amongst our service users. We believe the proposed increase in the number of affordable dwellings will help to reduce the impact of shortage and increase the likelihood of protected persons securing good quality affordable rented accommodation.

*If you have ticked yes to discrimination, please state how this is justifiable under legislation.

5. Tackling Socio-economic inequality

Indicate Yes, No or Not Known for each group

	Communities living in deprived wards/areas	People not in employment, education or training	People with low academic qualifications	People living in social housing	Lone parents	People on low incomes	People in poor health	Any other socio-economic factor Please state:
Will the proposal specifically impact on communities disadvantaged through the following socio-economic factors?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Does the service or policy contribute to eliminating discrimination, promote equality of opportunity, and foster good relations between different groups in the community?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Could this proposal affect access to your service by different groups in the community?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

If Yes answered above – please describe the impact (including any positive impact on social economic inequality) and any mitigation if applicable.

Clients who use our services are some of the most disadvantaged in society. Any proposal to increase the portfolio of affordable housing in the borough will help to reduce homelessness amongst those who are, disabled, come from ethnic minorities and single pregnant women .

6. Review

How and when will you monitor and review the effects of this proposal?

We will monitor the number of new dwellings and the resultant impact it will have on the number of households on the housing waiting lists.

Enfield Council Predictive Equality Impact Assessment/Analysis

NB if there is likely to be an impact on different groups of staff as a result of this proposal, please also complete a restructuring predictive EQIA form

Action plan template for proposed changes to service, policy or budget

Title of decision: ... Entering into agreement with Origin HA to provide a mix of 7 new dwellings for affordable rent

Team: ...Housing Development & Estate Renewal..... Department: ...Regeneration & Environment.....

Service manager: ...Rupert Brandon....

Identified Issue	Action Required	Lead Officer	Timescale/ By When	Costs	Review Date/ Comments
This EQIA to be reviewed February 2019	review document	Amanda Jootun	February 2019	None	23 February 2019

Please insert additional rows if needed

Date to be Reviewed: 23 February 2019

APPROVAL BY THE RELEVANT ASSISTANT DIRECTOR - NAME: RETAK GEORGE SIGNATURE: 

This form should be emailed to joanne.stacey@enfield.gov.uk and be appended to any decision report that follows.