

**MUNICIPAL YEAR 2018/2019 REPORT NO.**

**ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY**

**OPERATIONAL DECISION OF:**

Executive Director Place  
in consultation with the  
Director Finance

<b>Agenda – Part:1</b>	<b>KD Num: 4848</b>
<b>Subject:</b> <b>Entering into agreement with Christian Action Housing Association to provide 24 affordable rented homes.</b>	
<b>Ward: Edmonton Green</b>	

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**1. EXECUTIVE SUMMARY**

- 1.1 The Council has set aside some right to buy receipts, to be utilised by RP's by March 2020.
- 1.2 Report KD 4573 recommended any future decisions to authorise funding and entry into legal agreements, be delegated to the Executive Director – Place, Regeneration and Environment in consultation with Director Finance respectively.
- 1.3 This report recommends the Council awards grant funding to Christian Action Housing Association Ltd and enters into an 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 Executive Director Place in consultation with the Director Finance:

- 2.1. Approve the award of RTB funding to Christian Action Housing Association Ltd (CAHA) to part fund development of twenty four dwellings for affordable rent and enter into a 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 submission. 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 Place and the Director Finance 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.

### **3.5 Entering Grant Agreement**

- 3.5.1 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.
- 3.5.2 Officers have now finalised negotiations with CAHA 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. It has been agreed that 50% of the grant will be payable to CAHA on signing the agreement and 50% on completion of the units.
- 3.5.3 CAHA 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 4% above the base rate compounded, from the time the receipt was generated.

## **REASONS FOR RECOMMENDATIONS**

- 5.1 The Council's Housing Strategy requires 798 new homes 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 24 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 FROM OTHER DEPARTMENTS**

### **6.1 Financial Implications**

- 6.1.1 The bid total is £1,967,250 which will be funded from RTB receipts and paid to Christian in two tranches, 50% upon signing the grant agreement in 18-19 and 50% in 19-20 upon project completion.
- 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.
- 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 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 grand funding agreement, which is to be signed between the RP and the Council.

6.2.9 This report constitutes a Key Decision and the Council's Key Decision process must be followed.

6.2.10 Any resultant legal agreements, including the grant funding agreement, must be approved by Legal Services on behalf of the Director of Law and Governance.

### **6.3 Property Implications**

There are no direct property implications arising from the issuing of grant to CAHA however, an appropriate mechanism should be put in place to ensure that the grant funding is secured against the registered title upon which the 24 housing units are to be constructed.

## **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 4% above the base rate compounded, from the time the receipt was generated.

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.

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 – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD**

### **8.1 Good homes in well-connected neighbourhoods**

Supporting development of new housing will enable the Council to increase the portfolio and quality of stock it has to discharge its statutory housing responsibility to households that live in the Borough.

### **8.2 Sustain strong and healthy communities**

Any increase in the provision of housing within the Borough is likely to make a positive contribution to strengthening communities.

### **8.3 Build our local economy to create a thriving place**

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.

An Equalities Impact Assessment (see Background Documents), shows that the allocation of funding to CAHA does not discriminate against any group sharing a protected characteristic. The EQIA highlights benefits to clients in protected groups such as those with disabilities, ethnic minorities, elderly persons and single pregnant women.

The Council will retain 100% of the initial nomination rights and properties will be allocated in accordance with the Councils current procedure. CAHA has a Equality, Diversity and Inclusion Strategy.

## **10. PERFORMANCE AND DATA 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.

## **11. PUBLIC HEALTH IMPLICATIONS**

Housing is a basic human right without which it is extremely difficult to adopt or maintain a healthy lifestyle. The life-expectancy of the homeless is approximately half that of the general population. Funding further housing in the borough therefore will be instrumental in improving health.

### **Background Papers**

EQIA