

MUNICIPAL YEAR 2019/2020 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

OPERATIONAL DECISION OF:

Director of Housing and Regeneration in consultation with the Director of Finance

Agenda – Part: 1

KD Num: 4986

Subject: Acquisition of additional affordable homes on New Avenue

Wards: Cockfosters

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1. EXECUTIVE SUMMARY

- 1.1 The provision and growth of good quality, affordable homes is a key priority for the Council as set out in the Cabinet decision (KD4830) of 13 February 2019, which included recommendations to full Council on necessary budget decisions. KD4830 confirmed the resolution to deliver additional social and affordable rented homes owned by the Council and Cabinet delegated authority to the Director of Housing and Regeneration in consultation with the Director of Finance to approve third party land and property acquisitions subject to due diligence and valuations.
- 1.2 The Greater London Authority (GLA) have indicated that, under their Approved Housing Provider 2016-22 (AHP16-22) funding programme addendum, the Council can draw down £70k of grant per affordable rented unit on the New Avenue scheme if it can achieve 40% affordable housing across the scheme.
- 1.3 This proposal seeks to acquire 25 market sale homes from Countryside Properties UK (CPUK) to bring the total allocation of affordable homes on the New Avenue scheme to over 40%, with a commitment to topping up these purchases by up to 8 additional units to maintain the level of over 40% affordable housing should planning consent be granted to increase the total number of homes from 468 to 505. More detail is set out in the next 2 reports.

2. RECOMMENDATIONS

1. To authorise the Director of Housing and Regeneration to purchase 25 units at market value, utilising GLA grant under their affordable housing programme addendum, for the purpose of converting to London Affordable Rent/Social Rent, at the value specified and in line with the Heads of Terms detailed at part 2 of this report.
2. To authorise the Director of Housing and Regeneration to purchase up to 8 additional units, utilising GLA grant under their affordable housing programme addendum, for the purpose of converting to London Affordable Rent/Social Rent, should planning consent be granted for a larger scheme when planning is submitted later this financial year. The additional units will be to maintain a level of affordable housing above 40% so as to draw down GLA grant across the entire affordable housing provision on the scheme, at the value specified and in line with the Heads of Terms detailed at part 2 of this report.
3. To authorise the Regeneration Project Director, in consultation with the Head of Development to agree and finalise the Heads of Terms for the purchase of the units.

3. BACKGROUND

- 3.1 Planning consent was granted for the redevelopment of the New Avenue estate on 8th November 2016, reference 16/01578/FUL. This would see the development of 408 new homes, 140 (34%) of which would be affordable rented homes.
- 3.2 Through their affordable housing programme, the GLA incentivise developers to increase the level of affordable housing programme above the amount agreed via S106. This involves offering grant across all the affordable units delivered if the total percentage of affordable housing reaches 40% across the scheme.
- 3.3 Discussions with the GLA have indicated that due to the Council retaining control of the site and the freehold of all units post construction (including direct control of the affordable units) a similar methodology can be applied but at registered provider grant levels. This would see every affordable rented unit on the scheme eligible for £70,000 of grant funding.
- 3.4 Under the current planning permission, 408 units will be delivered in total. Currently 140 units will be affordable. It would take an additional

24 units being flipped to affordable to enable grant to be claimed across all the affordable units.

- 3.5 The Council entered into commercial negotiations with Countryside over purchasing these additional units. Countryside would seek a price at or near market rates as they are currently intended to be sold on the open market and sales rates to date have been strong.
- 3.6 A price has been agreed with Countryside for 25 units as detailed in the part 2 report. The additional unit reflects the layout of the blocks being purchased, with two blocks totalling 25 units available. Start on site commenced in January 2018 and completion will occur within the next 12 months.
- 3.7 Countryside are currently working through a revised S73 application with the Local Planning Authority, seeking to increase the total number of units to 505. This will include a reassessment of the level of affordable housing required through S106.
- 3.8 If planning is granted this would mean that, if the overall level of affordable housing falls back to below 40%, the Council will need to top up the number of additional units purchased to maintain the grant arrangement with the GLA (grant would be available for the additional units purchased). If the S106 requirement for the increased number of homes results in over 40% affordable housing across the whole scheme (excluding the 25 the Council is purchasing) then no additional units will need to be purchased but the Council will be eligible for further grant to cover the increase in affordable housing delivered via the S106 route for the new planning consent.
- 3.9 Assuming that the minimum level of affordable housing the Local Planning Authority would approve would be in line with the existing consent (34%) the maximum number of additional units the Council would need to purchase to maintain GLA grant provision would be eight. This option is included in this report as a contingency to respond to any decision that the Local Planning Authority makes. In respect of this report, the Council is acting as a landowner and has no influence on the decision making process administered by the Local Planning Authority.

4.0 Benefit of acquisitions

- 4.1 The 25 units that would be purchased as part of the initial acquisition would be broken down as follows:

Beds	Acquisitions
1	4
2	7
3	14

- 4.2 The additional 8 units that would be delivered through planning consent for 505 units in total and delivered through S106 and/or purchase by the Council would be broken down as follows:

Beds	Acquisitions
1	4
2	3
3	1

- 4.3 Avison Young have informally confirmed that the price agreed with Countryside represents good value for money. Prior to completion a red book valuation will be carried out by Avison Young to formally confirm that the Council are not paying over the appropriate price.
- 4.4 The additional units will be purchased on the basis of a rent level set at London Affordable Rent in line with GLA requirements for drawing down grant.
- 4.5 Where these additional units are used to rehouse existing New Avenue residents as a way of speeding up the delivery of the New Avenue scheme, rents will be set at a lower social rent level in line with their existing tenancies. When the corresponding affordable property allocated out of the original S106 affordable subsequently comes forward it will be let at London Affordable Rent. In simple terms this means that at the end of the scheme there will be 140 social rent units and 25 London Affordable Rent units (increasing proportionally should planning for 505 units in total be granted).
- 4.6 There are two clear benefits achieved through purchasing the additional units. These are:
- The total number of affordable rented homes on the New Avenue development will increase, providing much needed accommodation for Enfield residents currently on the housing waiting list.
 - Residents currently in Coverack Close maisonette blocks can move into a new home earlier, as could a small number of residents currently living off the estate as part of a double decant. Not only would this be beneficial for those specific residents it would also speed up the regeneration as the vacated blocks could be demolished earlier and the entire project could be completed approximately two years earlier than currently planned.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 **Do nothing** - The Council would miss out on the opportunity to utilise significant levels of GLA grant to buy additional affordable housing at minimal cost to the Council. This would see the opportunity to speed up

the regeneration programme missed and also prevent 33 additional households moving out of temporary accommodation.

- 5.2 **Only commit to purchasing 25 units** – this does not present a problem if planning is not obtained for additional units. However, if planning is obtained and the total percentage of affordable housing decreases to below 40% the Council would be required to repay the entire grant allocation to the GLA.

6.0 REASONS FOR RECOMMENDATIONS

- 6.1 The GLA offers generous grant to incentivise increases in affordable housing above the level determined to be viable through the S106 process.
- 6.2 The level of affordable housing provision on the New Avenue scheme and the way in which ownership and development is structured, presents an opportunity for the Council to purchase market sale units for conversion into much needed affordable rented units, with minimal impact on the HRA.

7. COMMENTS FROM OTHER DEPARTMENTS

7.1 Financial Implications

- 7.1.1 The costs for the additional units at New Avenue will be included in the HRA capital programme for 19-20. These costs will be funded from HRA borrowing and are included in the HRA 30 year business plan.

7.2 Legal Implications

- 7.2.1 The Council has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation and subject to public law principles. A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others.
- 7.2.2 Pursuant to section 8 of the Housing Act 1985, the Council is required to consider the housing conditions and needs of their area with respect to the provision of housing accommodation. Section 9 of the Act empowers the Council to provide housing accommodation by erecting houses, or converting buildings into houses, on land acquired by them or by acquiring houses.
- 7.2.3 Section 17(1)(b) of the Housing Act 1985 empowers the Council to acquire dwellings for housing purposes. Furthermore, in accordance with section 120(1), Local Government Act 1972,

the Council has the power to acquire any land where it is for the purposes of (a) any of its statutory functions or (b) for the benefit, improvement or development of its area. Accordingly, taken together, these provisions give the Council power to acquire the units.

7.2.4 In pursuing the acquisition of the units, the Council must comply with its Constitution including its Property Procedure Rules which set out mandatory procedures regarding “real property (property assets),... which the Council has or proposes to have a legal interest”. It is confirmed, at paragraph 7.3.1 of the report, that these rules have been satisfied.

7.2.5 The delegation from Cabinet to approve third party land and property acquisitions was ‘subject to due diligence and valuations’ being undertaken. In this regard, it is noted that Avison Young have informally confirmed that the price agreed with Countryside represents good value for money and prior to any purchase a red book valuation will be carried out to formally confirm that the Council are not paying over the appropriate price. The red book valuation will have to be carried out prior to exchange of the agreement for sale and purchase. Details of transfers, leases, estate management agreements and the like have yet to be given by Countryside. As such, it is not possible at this time to report on their content.

7.2.6 Public law principles will apply to the decisions made by the Council in relation to the acquisition of the units, including the Council’s duty to take account of its fiduciary duty and to act prudently with public monies entrusted to it. The Council is also under a general duty to act reasonably and show that its decisions are made after having given due and proper consideration to all relevant factors. The Council must consider whether the transaction proposed in this report will be a prudent use of the Council’s resources and must seek to strike a fair balance between the interests of tax/ratepayers on the one hand, and the wider community’s interest on the other hand.

7.2.7 It is noted that planning consent was granted for the existing units, with a Section 106 agreement secured for permission reference 16/01578/FUL. Any variations will also need to be submitted to the Local Planning Authority and consent secured through a legal agreement or variation of the existing Section 106 agreement, pursuant to the Town and Country Planning Act 1990.

7.2.8 The terms of any Agreement relating to the GLA grant will need to be considered, including the risks concerning repayment and timings for draw down of these funds, as the acquisition of the units is dependent on this.

7.2.9 All legal agreements arising from the matters described in this report must be approved in advance of commencement, by Legal Services on behalf of the Director of Law and Governance.

7.3 Property Implications

7.3.1 Section 4.2 of the Property Procedure Rules state that any acquisition over £500,000 has to be approved by Cabinet. KD4830 confirmed the resolution to deliver additional social and affordable rented homes owned by the Council and Cabinet delegated authority to the Director of Housing and Regeneration in consultation with the Director of Finance to approve third party land and property acquisitions subject to due diligence and valuations. This requirement as stipulated in the Property Procedure Rules has therefore been satisfied.

7.3.2 Section 4.3 of the Property Procedure Rules state that a service Director's report must be providing stipulating how the acquisition will help deliver the Council's strategic objectives, that the Council is able to afford the life-cycle cost of the acquired units and that the report is approved by the appropriate senior officer. This report sets out the benefits of the acquisition and has been approved by the Executive Director for Place. Part 2 of this report demonstrates that the purchase price for the units falls within the Council's hurdle rates for acquisitions. This requirement as stipulated in the Property Procured Rules has therefore been satisfied.

8. KEY RISKS

8.1 The key risk would be the missed opportunity to purchase additional affordable rented homes well within the Council's hurdle rates.

8.2 Countryside are reporting healthy sales for their market sale units and have withheld the units the Council is seeking to buy on the basis of an agreement being made. If the Council cannot make a decision quickly they will revert back to the open market. Once one unit is sold the option of buying any units is lost through a combination of the way units are managed and the loss of GLA grant should the total level of affordable housing fall below 40%.

8.3 There is a risk of uncertain market conditions due to Brexit but, given the level of GLA grant available the Council are mitigated against this as the level of HRA expenditure by the Council equates to a unit cost significantly below market value. It is not possible to know for certain whether or not prices will fall (or indeed rise) after Brexit, but the possibility of them falling is not a reason to withhold agreeing the purchase now for the reasons set out in point 8.2 above.

- 8.4 Whilst unlikely, the risk of Countryside ceasing to trade through bankruptcy should be covered, especially as the homes being purchased are not yet complete. However, this risk is mitigated by virtue of the homes having been almost completed, i.e. the homes are well over 50% complete and therefore were Countryside to go bankrupt, the cost of completing the homes would be no more than the remainder of the sum the Council was due to pay Countryside on completion.

9. INTERNAL DEPARTMENT IMPLICATIONS/CONSULTATION

N/A

10. IMPACT ON COUNCIL PRIORITIES – CREATING A LIFETIME OF OPPORTUNITIES IN ENFIELD

10.1 Good homes in well-connected neighbourhoods

This acquisition will increase the supply of affordable homes, creating sustainable growth and boost the diversity of people that live in, work in and visit the area.

10.2 Sustain strong and healthy communities

Developing and sustaining good quality homes in areas where people desire to live will help to create and maintain strong sustainable communities. The New Avenue development as planned already strengthens the existing community and the provision of additional affordable units to increase the affordable percentage to 40% will further help the creation of a strong, healthy and balanced community.

10.3 Build our local economy to create a thriving place

As per point 10.2 above, the increase of affordable housing to 40% of households across the scheme will help create a thriving, balanced community.

11. EQUALITIES IMPACT IMPLICATIONS

- 11.1 The provision of additional affordable housing units will provide an increased number of homes for people currently living in unsuitable accommodation, a disproportionate number of whom area from groups with protected characteristics.
- 11.2 Corporate advice has been sought in regard to equalities and an agreement has been reached that an equalities impact assessment is neither relevant nor proportionate for the approval of this report

12. PERFORMANCE AND DATA IMPLICATIONS

The purchase of additional units will facilitate the speeding up of the development programme by approximately two years.

13. PUBLIC HEALTH IMPLICATIONS

The purchase of additional affordable rented units will result in households currently living in poor quality or overcrowded accommodation the opportunity to move into a home that meets their needs. This in turn leads to an improvement in health and wellbeing for these residents.

Background Papers

N/A for Part 1