

London Borough of Enfield

Portfolio Report

Report of: Joanne Drew

Subject: Acquisition Programme using Right to Buy receipts

Cabinet Member: The Leader of the Council, Cllr Nesil Caliskan

Executive Director: Joanne Drew (Acting)

Ward: All

Key Decision: KD 5544

Purpose of Report

1. To authorise an acquisition programme funded by combination of Housing Revenue Account (HRA) capital investment, Right to Buy (RtB) receipts or grant, for a period of five years commencing in 2022/2023. This is on the basis of the current rules for use of RTB receipts. If this changes to give more flexibility on eligible costs then, the approach outlined in this report will be reviewed.

Proposals

2. On the basis of the existing rules around the use of RTB receipts, approve the strategy to acquire homes for affordable housing to support the overall HRA Business Plan and mitigate risk of construction slowing down over the next 5 years.
3. Authority to acquire 55 newbuild homes and subject to budget and any RTB policy changes, exercise authority to acquire 82 further units as per expenditure set out in the confidential appendix for the acquisition of 137 newbuild homes (55 homes in 2022/2023 and 82 homes in 2023/2024) to be delivered as additional social housing; including expenditure on fees associated with the appointment of an Employer's Agent and Clerk of Work services to be provided by Bailey Garner.
4. Authorise expenditure for future years as set out in the Confidential Appendix, from 2023/2024 to 2027/2028.
5. Delegate authority to the Director for Housing and Regeneration in consultation with the Director of Law and Governance and Executive Director for Resources to agree the ancillary agreements and documents related to the purchases.
6. Approve any associated bids and acceptance of GLA affordable housing grant to be spent on acquiring homes to meet the GLA targets.

7. Approve the submission of any claim for 100% relief in respect of Stamp Duty Land Tax to HM Revenue & Customs together with appropriate Options to Tax to maximise tax relief.

Reason for Proposals

8. In June 2012, Enfield signed the Government's RTB One for One Replacement Scheme agreement and in subsequent years the S116 Retention Agreement (2021).
9. The Government requires local authorities to spend right to buy receipts within five years of them being received (extended from three years in 2021). This is calculated on a quarterly basis. Failure to spend the receipts means the Council must pay them back to Government along with a 4% compound interest charge. To date the Council has not handed back receipts and this report proposes a programme to ensure this is maintained and that receipts are applied to accelerate supply and increase the number of homes for affordable housing.
10. The profile for Right to Buy Expenditure are set out in the Confidential Appendix A.
11. The acquisition of newbuild homes on the Alma, Ponders End will enable the Council to increase its overall affordable housing stock which will help to meet the needs of residents on the housing register, with the family accommodation providing solutions to address overcrowding.

Relevance to the Council's Corporate Plan

12. The decision will enable the Council to steward the residential placemaking, support delivery of much needed additional affordable homes and create new and safe neighbourhoods.

Background

13. The Council has an ambitious programme to increase the number of homes it owns to improve rental income and receipts to support the wider Housing capital works investment programme.
14. The last two years or so have been hard for many sectors. The impact of Brexit, Covid and now the war in Ukraine has led to considerable volatility in the construction market and mortgage availability has made sale of private homes high risk. As of March 2022, reports are that project starts have reduced by 24% year on year. Thirty-one construction firms were declared insolvent in February 2022 and 24 in March 2022.
15. This, along with the general impact of the recession, has led to a change in contractor attitudes to risk and willingness to fix prices. Material prices, labour availability, building regulation changes and sub-contractor insolvencies have all led to pressures on main contractor boards having to be more robust in their risk profiling. By establishing an acquisitions programme, this de-risks the council's development and regeneration programmes by offsetting price increases on direct delivery and slowdown in sales (which could impact on construction cashflow and build out) and enables the Council to commit its Right to Buy receipts within the restrictions set by Government.
16. The Council has established a forum for developers and landowners to improve overall housing delivery in the borough and to understand better the constraints in the local market and construction sector. Considerable feedback has been obtained from

contractors prior to and during tendering. Their willingness to fix prices without a considerable potentially unviable allowance, has led to difficulties in procuring developments within anticipated appraisal values at a fixed price. Willingness to hold contracts based upon earlier tendered prices has diminished, leading to delays and negotiations, thus protracting ability to commence delivery of the much-needed homes and infrastructure the UK requires.

17. The general inflation (CPI) increased to 10.1% as at October 2022. Whilst this has a bearing on construction, more importantly for this area of the economy is material inflation. The Construction Leadership Council's current update highlights key areas where material costs have increased greater than CPI. Availability is also now being further pressurised post pandemic due to the accessibility of key components exported from Ukraine, transportation issues and general global demand versus supply economics.
18. The Tender Price Index is likely to increase by anywhere between 5% and 8.5%. With minor regional differences, +/- 1%. The inflationary trend will likely continue over 23-25 albeit with a potential reduced rate but still much higher than experienced pre-pandemic.
19. Feedback from main contractors is that sub-contractors at present are unwilling to fix prices or are asking for higher sums to cover their risk. As such main contractors are asking for fluctuation provisions to cover this, which leads to new levels of price uncertainty. This presents a need to review sites current underway and at an advanced construction stage and support provision of new homes to prevent development so stalling.
20. This means that overall, the proposed strategy to invest in homes under construction or with planning, will enable the Council to de-risk the HRA's 3500 homes programme over the next 2 years and limit risk exposure of direct costs of capital for commissioning build.

Main Considerations for the Council

21. The Council will secure the delivery of much needed social housing for people on the housing register and affordable home ownership options for those who cannot afford to buy and are ineligible for social housing.
22. The homes offer a range of bedroom sizes, including some wheelchair adapted homes which will help to address specific needs for those who are on the waiting list.
23. The Council can apply up to 40% RtB receipts against total scheme costs (TSC) which is higher than current levels of affordable housing grant (approximately 15% of TSC) and means less onerous conditions to support the delivery of homes. By acquiring homes based on fixed price this will help to reduce the overall call on borrowing over the next two years regardless of fluctuations in the market. The current price is within the borrowing limits set within the HRA Business Plan.
24. The payments will be made as per the Heads of Terms provided in the Confidential Appendix A.
25. A scheme appraisal was completed using ProVal which assessed the life cycle costs and includes contingency. The acquisition meets the hurdle rates set for the HRA. Any acquisition must comply with the Property Procedure Rules and the content of this report complies with those rules. An independent valuation by a RICS surveyor was undertaken to assess the potential market value of the newbuild homes.

Safeguarding Implications

26. None

Public Health Implications

27. No direct public health implications identified but affordable and healthy homes are prerequisite for the health and wellbeing of our residents.

Equalities Impact of the Proposal

28. The Public Sector Equality Duty requires all public bodies to have due regard to the need to :

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

29. The broad aim of the duty is to integrate equality considerations into general policy and decision making and we do this using the process of equality impact assessment.

30. An Equalities Impact Assessment (EqIA) of the proposals has been carried out and is attached at Appendix B. The EqIA has not identified negative impacts on any equalities group. 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. There is a need for more family housing and 50% of the homes will be 3- and 4-bedroom homes. The acquisition is likely to benefit families with children and young people among other household characteristics on the housing register. The purchase of larger homes will also enable us to deliver on our commitments to provide appropriate social housing and reduce overcrowding.

Environmental and Climate Change Considerations

31. The development will implement significant energy efficiency measures, to achieve the required carbon emission reductions by the Local Authority. The residential units have been calculated to achieve as much as 86% improvement in CO2 emissions over the baseline requirements within Building Regulations Approved Document Part L1A 2020 through the use of enhanced building fabric, connection to a heat network and low and zero carbon technologies.

32. The schemes also have an approved Green Procurement Plan which outlined how the development will seek to minimise the environmental impact of the scheme through responsible sourcing of materials, minimising construction site impacts, local procurement and employment strategies and the minimisation of construction and demolition waste.

Risks that may arise if the proposed decision and related work is not taken

33. The potential risk is that if the decision is not taken, the Council will not be able to acquire and own more newbuild homes to address the need for social housing. This

will negatively impact the Council's ability to support those with the highest need in the borough and at a time where cost of living is impacting mostly residents in the private rented sector and temporary accommodation.

34. There also is a risk that should the Council not acquire these units, Countryside PLC will not be able to secure an Affordable Housing Provider for the affordable provision or sell the private homes, which will impact on cashflow for the main construction and delay the programme.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

35. The risk on Alma is limited as the units are due to complete in the next 12-18 months and the 137 units will be converted to social housing which means the Council will be generating income to service any debt. All other acquisitions will be considered on a case-by-case basis to ensure these are aligned to the HRA Business Plan which sets the overall envelope for housing delivery.

| Risk | Impact | Mitigation |
|-------------------------|--|---|
| Construction slows down | Limited as fixed price and longstop dates are set out in the contracts | Employer's agent and LBE clienting will monitor performance |

Financial Implications

36. This report is proposing to purchase 55 homes and reserve our position on a further 82 homes totalling 137 affordable units from Countryside PLC (the Developer) on the Alma project.
37. The financial implications are included within the Confidential Appendix A.

Legal Implications

38. The Council has entered a Retention Agreement with The Secretary of State for Housing, Communities and Local Government pursuant to section 11(6) of the Local Government Act 2003. This sets out the terms and conditions on how the RTB receipts can be spent. RTB receipts allocated in this report are to be spent in accordance with that agreement.
39. Section 120 of the Local Government Act 1972 and section 17 of the Housing Act 1985 provide the Council with powers to make the acquisitions as proposed in this report.
40. The Government has introduced some SDLT reliefs to help facilitate developments, although it is recommended that specialist tax advice is obtained if the Council wishes to be certain that it is able to rely upon a particular relief.
41. External legal advice is being sought to review and address any implications which may arise in connection with subsidy control and/or procurement regimes.
42. The form of Contract and Transfer shall be in a form approved by the Director of Law and Governance.

43. The recommendations set out in this report are within the Council's powers and duties.

Legal implications in this report provided by JH (Legal) based on version of report circulated on 5.12.2022

Workforce Implications

44. None

Property Implications

45. HRA property implications: these are to be found throughout the report.

46. Corporate property implications: the transaction that is described in this report has the indirect effect of supporting property values that are used within the business case of the Council's Meridian Water project, thus helping to underpin the continuing viability of the scheme.

Other Implications

47. None

Options Considered

48. The alternative would be to do nothing and see if the homes sold on the open market. With the current economic conditions, we understand sales and marketing is stalling. On Alma, the ending of Help to Buy is likely to see further a slowdown of sale of private tenure homes which will impact on cashflow for construction of the wider scheme. By purchasing the homes, the Council can underwrite delivery and secure more affordable homes for social rent

Conclusions

49. By purchasing the homes, the Council can fulfil its Right to Buy retention agreement, secure affordable home ownership for residents and management of the majority of affordable housing on Alma to manage the long-term stewardship of our significant regeneration schemes.

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Appendices

Appendix A - Confidential appendix
Appendix B – Equalities Impact Assessment (EqIA)