

Report of the Cabinet Member for Homes and Safer Communities

## **New social housing downsizing opportunity**

### **Summary**

1. The Housing Revenue Account business plan has identified a £20m investment fund for new affordable housing. The purpose of this report is to propose an opportunity to acquire 14 new apartments proposed to be built on the site of the former Pack of Cards Public House for a council housing down-sizing scheme in an 'off-the-shelf' purchase from a housing developer.

### **Background**

2. Analysis of the council housing stock has shown that a proportion is under-occupied and a significant amount of those under-occupying are elderly. There are approximately 580 households currently under-occupying and affected by spare room subsidy reform, and of the 2,300 households on the council waiting list 480 are under-occupying (as of 1 April 2014). Over recent years a number of downsizing opportunities have been developed aimed at encouraging those tenants who are under-occupying to move to smaller accommodation.
3. When considering opportunities for downsizing schemes and the learning from earlier schemes, it is clear that there are three key criteria that if brought together can result in a successful scheme. Evidence has shown that when moving from what has often been the long standing family home, moving into something that is new and purpose built is critical to incentivising tenants to move home. Ensuring that any new scheme is 'ring fenced' to tenants of a similar age group is also critical; it is proposed that the scheme be for over 55's<sup>1</sup>. The final key criterion is the location of the new homes and their proximity to key amenities, i.e. shops, doctor's surgery and post office.

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<sup>1</sup> First lettings will be over 55s, going down in 5 year age bands subject to demand.

4. Investment in new council housing is a key objective of the Get York Building project and meets a number of key council priorities. There is an identified housing need for 790 new affordable homes per annum<sup>2</sup> and recent increases in the discounts available on Right To Buy applications has resulted in an increase in the sale of existing stock. Conversely, this has released further funds to build new council housing. Additionally, any investment in new housing will increase the size and quality of the council's asset base and rental income streams.
5. Of the £20m investment fund £6m was identified by Cabinet in May 2013 to build a first phase of 50 to 70 new council homes. The Housing Strategy and Development Team are currently identifying additional options to provide new council housing. As part of this work the council have been approached with the following opportunity to purchase a new development of 14 apartments on the former Pack of Cards public house site in Holgate ward.

## **Proposals**

6. The Pack of Cards public house site is situated on the corner of Lindsey Avenue and Sowerby Road. The site had been marketed as a development opportunity since the summer of 2012, following no interest in the public house as a business or the site as a commercial development opportunity it went to auction on the 18 September 2013 where it was purchased by RHW Developments, a small housing development company based in York with experience in delivering affordable housing. The public house has since closed.
7. RHW Developments have approached the council with the option of selling all 14 apartments (subject to planning) for the use as council housing on completion. The proposed mix of apartments would be 8 x 2 beds and 6 x 1 beds, built to Homes and Community Agency and Lifetime Homes standards. The council would also take the freehold of the building.
8. The intention would be for the apartments to be prioritised for down-sizers as part of the council's strategy to release family housing which is currently under-occupied. To date the council have completed three down-sizing schemes with housing association partners (Tang Hall, Huntington and Acomb), with a further scheme to complete in June of this year (Water Lane, Clifton). This is in addition to new council house build programme, where four of the sites currently propose down-sizing apartments (Beckfield Lane, Chaloners Road, Fenwick Street, Newbury Avenue).

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<sup>2</sup> North Yorkshire Strategic Housing Market Assessment 2011, York Annex

9. It is proposed that if Cabinet approve the recommendation to purchase the homes, the new scheme is a downsizing scheme with first lettings aimed at those over the age of 55. There is demand for homes in this area and it is close to key amenities, i.e. Doctors, shops, Post Office etc.

### Costs and delivery

10. The total purchase price of the completed homes would be:
- **£1,649,060** (or £117,790 per unit) if built to Code for Sustainable Homes Level 3
  - **£1,676,500** (or £119,750 per unit) at Code for Sustainable Homes Level 4.

The detailed breakdown of these costs is contained in a confidential annex to this report. The acquisition price would be in the form of staged payments throughout the construction period.

11. The planning application was submitted at the end of March 2014. It is anticipated that the application will be determined in June 2014 with a start on site that summer. Based on a year build programme the completed homes would be ready in the summer of 2015.

### Funding

12. The proposed funding route is identified below, drawing on a range of available streams that can be applied towards the delivery of new council housing. The proposals are as follows (based on Code for Sustainable Homes Level 4 and a purchase price of £1,676,500):

Funding route	Amount
HRA investment fund	£1,023,550
Right to Buy receipts	£502,950
Commutated Sums	£150,000
<b>TOTAL</b>	<b>£1,676,500</b>

13. The HRA investment fund is a £20m pot of money identified for a 5 year programme of new council house building as part of the Get York Building project. To date £6m of this has been earmarked for phase one of the new council house build programme.
14. At this stage the use of Right to Buy (RtB) receipts is preferred to accessing Homes and Communities (HCA) grant funding, as the two can not be applied in conjunction and RtB receipts have a number of

advantages. The council are required to apply RtB receipts to provide new affordable homes. If the money is not spent it is returned to central government with interest payable. The recent increase in the discounts available has led to a considerable increase in RtBs, and consequently the council has a greater amount of money available to spend than anticipated at time the HRA Business Plan was set.

15. The condition attached to the expenditure of the RtB receipts is that it must be matched by the council at a ratio of 1:3. In real terms this means that to build a £120k unit the council would need to spend £84k, with RtB receipts accounting for the remaining £36k. This is £14k more than is likely to be secured through HCA grant funding. Furthermore, if using grant funding the homes would need to be for affordable rents and not social rents, which are set at a higher rate and are therefore less affordable for tenants.
16. There are a number of other advantages to using RtB receipts. The most obvious is the requirement to spend the receipts on providing new homes or return the money with interest. This would result in losing significant amounts of potential investment into the city as well as incurring costs. Furthermore, there would be no guarantee of securing HCA grant as the application would be part of an open bidding process with other Registered Providers. Finally, HCA funding has a considerable number of conditions attached and bureaucratic administration processes which consume a considerable amount of officer time.
17. The council currently hold £1.33m commuted sums that are ring-fenced towards the provision of new affordable housing. To date £1m has been earmarked towards council house build phase one.
18. The annual rental income for all 14 properties will be approximately £52,600.

## **Contract**

19. Should the scheme be granted planning permission it is proposed that the council would enter in to a payment contract. This would commit the council to staged payments of the agreed purchase price throughout the construction period, with the council inspecting the scheme for quality at each stage. The contract would set out the agreed standards expected of the completed homes. Should Members approve the purchase of the homes then the detailed contract form will be agreed with legal services.

## Options

20. Cabinet are presented with three options:

- Option 1- To approve an 'off-the-shelf' purchase of the Pack of Cards development for new council housing at Code for Sustainable Homes Level 3, subject to the satisfactory conclusion of due diligence.
- Option 2 – To approve an 'off-the-shelf' purchase of the Pack of Cards development for new council housing at Code for Sustainable Homes Level 4, subject to the satisfactory conclusion of due diligence.
- Option 3 - To reject the opportunity to purchase new council housing at the Pack of Cards development, with the Housing Strategy and Development Team attempting to broker a deal with partner housing associations to purchase the completed homes.

## Analysis

21. Option 1- To approve an 'off-the-shelf' purchase of the Pack of Cards development for new council housing at Code for Sustainable Homes Level 3, subject to the satisfactory conclusion of due diligence.
22. It is the view of officers that the proposals represent a good opportunity having been considered against the following criteria: value for money, quality and strategic fit. These criteria would be applied to any other opportunity that was brought to the council by a developer.
23. **Value for money** - The purchase price is comparable to the total scheme costs of the apartments being built directly by the council in phase one of the new build programme. The current estimated costs for the Hewley Avenue site (based on the drawings submitted for planning) equate to £116,000 per unit at Code for Sustainable Homes Level 4. Whilst this is cheaper than the above proposal, the council's costs do not account for officer time in project managing the development and it requires no acquisition costs for the site (as it is to be built on HRA owned land).
24. **Quality** – the homes will be built to a minimum of Code for Sustainable Homes Level 3, and potentially level 4), and will be fully compliant with Homes and Communities Agency and Lifetime Homes Standards. This will replicate the high standards being achieved on phase one of the new council house build programme. These standards would form part of the contract to purchase the homes.

25. **Strategic fit** - This acquisition would (subject to planning) allow the council to add 14 much-needed new apartments to the council's housing stock, help to meet housing need, potentially release under-occupied family housing, and provide an asset which will generate a rental income stream. The site is outside of the council's ownership, which will allow the council to use its limited land resources for alternative additional homes, maximising the supply of new council housing. The purchase price is broadly equivalent to the cost to the council of building new homes, and would form part of a wider strategy considering all options to deliver new affordable homes in the city.
26. The developer also proposes to employ a contractor with a local base, who use local sub-contractors, sustainable materials where ever possible, and are committed to using apprentices - key tenets of the Get York Building project.
27. Option 2 – To approve an 'off-the-shelf' purchase of the Pack of Cards development for new council housing at Code for Sustainable Homes Level 4, subject to the satisfactory conclusion of due diligence.
28. For the reasons given in option 1, this represents a good opportunity to purchase new council housing on land not owned by the council. However, this option would ensure the homes are built to Code for Sustainable Homes Level 4, which is consistent with the standard being achieved on all other homes being built in phase one of the new council house build programme. Increasing from Code 3 to Code 4 is expected to achieve a further 25% reduction in carbon emissions and an estimated potential 15% saving on running costs<sup>3</sup>. It is in-line with the council's objectives to provide environmentally sustainable housing and minimise the impact of the city's carbon footprint. The uplift in cost from Code 3 to Code 4 is marginal at only £1,960 per unit, which is lower than the CLG identified average uplift cost of £2,900 for a 2 bed flat<sup>4</sup>.
29. Option 3 - To reject the opportunity to purchase new council housing at the Pack of Cards development, with the Housing Strategy and Development Team attempting to broker a deal with partner housing associations to purchase the completed homes.
30. This option would mean the council do not have to spend any capital investment to potentially secure new affordable housing in the city. The

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<sup>3</sup> <http://www.sustainablehomes.co.uk/blog/bid/104136/Code-for-Sustainable-Homes-level-4-energy-bill-savings>

<sup>4</sup> Department for Communities and Local Government (2010) '*Code for Sustainable Homes: A Cost Review*', Table 32, p.57

council would look to encourage housing associations to purchase the homes, leaving the HRA investment fund to pursue other opportunities. However there are a number of risks and issues for consideration. Firstly, there is no guarantee that a housing association would want to take the homes (dependent on their investment strategies at this time), and it is the preference of the developer to deal directly with the council. It should be noted that it is likely that a housing association would be interested in taking this opportunity given it does reflect a value for money investment. However, it would add uncertainty to the development at this stage.

31. Secondly, any new homes provided by a housing association are likely to be for affordable rent rather than social rent, which would impact on affordability (increasing the rent from c. 60% of market rents to 80% of market rents). It would also mean the council are not able to add to its asset base, with the housing association instead benefiting from the opportunity. Most importantly, the key challenge at this stage is not the availability of money in the HRA invest fund, but opportunities on which to provide new council housing. This is a relatively quick and low time intensive option to secure new council housing in comparison to other procurement routes.

## **Council Plan**

32. Any approval to progress with the purchase would have a positive impact on four of the five council priorities.
33. Create jobs and grow the economy – As set out in a previous Get York Building Report (Feb 2013) investment in the construction industry has a direct positive impact on economic activity, with every £1 spent generating a total of £2.84 in extra economic growth. The developer proposes to use a locally based contractor, directly investing in the local economy and creating employment in the house building sector.
34. Build strong communities – New council housing will provide high quality accommodation for those unable to access housing on the open market. Access to high quality housing in places where people want to live at a price they can afford is a key tenet of the Housing Strategy (2011-15), and is crucial to happiness and well-being.
35. Protect vulnerable people – The new homes will be built to Lifetime Homes standards which are designed to adapt with people's changing care needs, enabling them to remain in their own home and independent for as long as possible.

36. Protect the environment – The recommended option would see new homes built to Code for Sustainable Homes Level 4, which exceeds the council's mandatory requirement to meet code 3 and will reduce carbon emissions on the completed homes and throughout the build process.

## Implications

37. The following implications have been identified:

- (a) **Financial** – The total purchase cost is £1,676,500 and will be funded from the HRA investment fund, right to buy receipts and commuted sums as outlined in paragraph 8. After the purchase of these apartments there will be £12.3m of the HRA investment fund still uncommitted. The apartments will generate an annual income of £52k for the HRA.
- (b) **Equalities** - It is considered that there are no negative equalities implications.
- (c) **Legal** - The Council has statutory power under S.120 of the Local Government Act 1972 to acquire by agreement from the owner any land for achieving any of its statutory functions or for achieving the benefit, improvement or development of its area. Once planning permission has been granted to the land owner for the proposed development, the Council could enter into a contract to purchase the site including the completed apartments. The timescale for construction of the houses, design and specification/construction standards should either be specified in the purchase contract or in a separate simultaneous building contract between the Council and the developer.

The purchase price will be payable in phases/stages during the construction period (rather than being payable in a single payment on completion of construction). It is recommended that the Council requires that ownership of the land is transferred to the Council on making of the first stage payment (to avoid the risk that the developer goes insolvent after the Council has made several payments to the developer but before the land has been transferred to the Council). If the developer will not agree to this, then the Council should at least require the developer to agree that the Council's interest in the land be noted at the Land Registry against the developer's registered title to the Site and insist the developer consents to the Council registering a Restriction against the developer's title prohibiting the developer from disposing of (or mortgaging) the Site without the Council's consent.



Stamp Duty Land Tax on the purchase price at the rate of 5% (i.e. circa £82,250) will be payable by the Council to HM Revenue & Customs (unless the Council can show HMRC it should receive a relief).

## **Risk Management**

38. The purchase represents a considerable investment on the council's behalf, although for the reasons stated in this report it is the view of officers that it represents value for money. In pursuing an 'off the shelf' purchase the key risk is that the development is not being led by the council and is not therefore directly within its control. However, in pursuing staged payments the council will be able to inspect the properties at regular intervals through the build process. The contract will commit the developer to provide the new homes to an agreed quality and identified standards. They will also be required to provide a 12 months defect period post completion.
39. Legal Services have provided advice on the contract options to protect the council's position should the developer become insolvent during the building of the new homes. However, in any new development this remains a risk, and contractor insolvency would result in delays and potential additional costs, although this will be mitigated as far as possible through the form of contract.
40. Due diligence will be undertaken before entering in to any contract to ensure that the developer is capable of delivering the development and on the title of the site.

## **Recommendations**

41. Members are asked to approve:

- (a) Option 2 - To approve an 'off-the-shelf' purchase of the Pack of Cards development for new council housing at Code for Sustainable Homes Level 4, subject to the satisfactory conclusion of due diligence, to be funded from the HRA investment fund, affordable housing commuted sums, and Right to Buy receipts.

Reason: To allow the council to add 14 new homes to its existing asset base and help to alleviate the acute housing need in the city, through an opportunity that does not require the use of any of the council's land assets.

## Contact Details

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### Background Papers:

Get York Building – A Case for Change.

### Annexes

**CONFIDENTIAL** Annex A - Summary of purchase price for homes at the former Pack of Cards pub site