



Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt as the exempt appendices contain exempt information within the meaning of paragraph 8 of Schedule 12A to the Local Government Act 1972.

The appendices are exempt because they refers to the amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services as well as the Council's confidential negotiating position in respect of the transaction and commercial advice on that position, and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Notice of Engrossment of Contracts for the purchase of homes at St Georges, Hornchurch
Cabinet Member:	Councillor Chapman, Lead member for Housing
SLT Lead:	Patrick Odling-Smee, Director of Housing
Report Author and contact details:	Garry Knights, Assistant Director of Property Services 01708432834 Garry.knights@havering.gov.uk
Policy context:	To increase the supply of affordable homes available in the district
Financial summary:	Total commitment as detailed in Appendix C, part funded by £1.596

Non Key Executive Decision – Part Exempt Report

	<p>million in grant with the residual from borrowing</p> <p>Expenditure or saving (including anticipated income) of £500,000 or more</p>
--	--

The subject matter of this report deals with the following Council Objectives

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Summary

Cabinet on the 16th September 2020 approved the purchase of 36 affordable housing units at St Georges Hospital, Hornchurch from Bellway Homes Limited.

Included in that approval was the authority that the Director of Housing acting in consultation with the Section 151 Officer, be authorised to enter into all necessary legal agreements, incorporating any associated minor adjustments to the heads of terms.

The contracts have now been negotiated via Sharpe Pritchard, LBH's legal representation on this matter, and Bellway's legal representatives and the contracts are now due to be engrossed.

Recommendation

That the Director of Housing in consultation with the Section 151 Officer agree to enter into all necessary legal agreements to complete the purchase of 36 affordable housing units at St George's Hospital on the terms as set out in this report

Detail

Bellway Homes Limited (Bellway) has been developing the St Georges site as a mixed development site of private sales and affordable homes in line with the approved planning and S106 agreement

Under this agreement LBH will purchase 36 units and associated car parking land, broken down into

Tenure	Number of units
Affordable rent	
1 Bed	3
2 Bed	11
LCHO	
1 bed	5
2 bed	17
Total	36

The mix and tenure type has been determined by the Section 106 agreement for the entire scheme.

All properties will be purchased on a freehold basis and LBH will manage these properties within the HRA using existing management mechanisms. The associated car

Non Key Executive Decision – Part Exempt Report

parking land whilst included within LBH's ownership will be managed by the management company set up by Bellway and costs recovered through an estate service charge.

Contract

The transaction has been structured as a sale contract for the land and a separate build contract for the units themselves, both documents to be exchanged simultaneously.

An initial deposit will be paid on exchange of the sale contract and once all of the units have reached at least two brick layers above damp proof course level the golden brick payment will be made and the units will be transferred to LBH giving LBH freehold title of the land. The remaining payments for the units will be made at 3 pre-determined stages under the build contract being roof, white box and practical completion.

An RICS red book valuation will be undertaken prior to exchange to ensure the land value at golden brick is in line with current market values.

The units will be delivered to a pre-agreed specification appended to the build contract.

The final contracts are shown at Appendix A and B.

The final contracts are broadly in line with the Heads of Terms (dated 30/01/2020 version 1) appended to the Cabinet Report 16th September 2020 but the following points should be noted:-

Management Company arrangements – it has now been agreed that the management company will in fact retain responsibility for managing the car parking spaces within the Council's ownership with the costs being recoverable from LBH as part of the estate service charge

Build Period – the timings have now been updated in the final contract documents as follows:-

- Target SoS – 30th June 2021
- GB – 12 months from SoS subject to an ultimate LSD of 24 months
- Target GB – 14th December 2021
- Practical Completion – 18 months from GB

Retention – a sum equivalent to 2% (in place of 1.5%) of each application for payment made by Bellway under the build contract.

Insurance – the final contracts now make it clear that Bellway will continue to insure the Property throughout the build period until practical completion and handover of the units to LBH.

Risks

Risk	Mitigation
------	------------

Non Key Executive Decision – Part Exempt Report

Impact of Covid 19 on housing market, affecting sales of shared ownership units	We have modelled both a reduction in our normal initial share from 40% to 25% and we have also modelled converting all of the units to affordable rented units. All models are shown above
Contractor default or not continuing with the scheme	The contractual provisions will ensure we are protected from default or non-completion The structure of the cashflow arrangement ensures that on golden brick the full land transaction is completed, and the build costs are paid in arrears
Low demand for rented units	The current housing register demonstrates sufficient demand for these units
Properties don't conform to planning or building control requirements	Appointment of an independent EA will help to monitor quality, The contract will require all signoffs from Planning and BC to be a condition of handover
HRA capacity to fund the scheme	This scheme has been included within the overall capacity assessment of the HRA
GLA grant is not available	This has been included in the GLA programmes and Grant levels and availability have been confirmed. Alternative of using RTB receipts

AUTHORITY UNDER WHICH DECISION IS MADE

Pursuant to the Cabinet meeting of 16 September 2020 authority is delegated to the Director of Housing in consultation with the section 151 Officer to enter into all necessary legal agreements, incorporating any associated minor adjustments to the heads of terms for the units at St Georges Hospital , t

STATEMENT OF THE REASONS FOR THE DECISION

Engrossment and exchange of the contracts is required to continue with the scheme.

OTHER OPTIONS CONSIDERED AND REJECTED

The only other option considered was to not proceed with this scheme, however given that the scheme is financially viable, it works as part of the overall HRA business plan, attracts GLA funding and meets current housing need this option was rejected.

Non Key Executive Decision – Part Exempt Report

Best value is demonstrated through the financial appraisal which is there to ensure the scheme meets our financial parameters, this is coupled with the assessment that this is affordable within the HRA and the demonstration of demand which show this to be an appropriate proposition.

PRE-DECISION CONSULTATION

Cllr Joshua Chapman - Lead Member or Housing

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Garry Knights

Designation: Assistant Director of Property Services

Signature:



Date: 15th February 2021

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has powers contained within section 120 Local Government Act 1972 to acquire land for the purposes of the performance of its function or for the benefit, improvement or development of its area. The delivery and promotion of housing and in particular affordable housing in a local authority's area is such a function. In this case, the Council's primary or main purpose in acquiring the freehold of the Site is to secure the outcome of the development in progress being the 36 units. The Council also has powers under section 17 Housing Act 1985 to acquire land for housing purposes, pursuant to its housing function.

The Council will acquire the 36 units and associated car parking land relying on funds provided by the Council's Housing Revenue Account supported by GLA grants. These units will then be subject to the provisions of the Housing Act 1985 and form part of the Council's council housing stock.

The Public Contracts Regulations 2015 provide that where the Council procures services, supplies or works they must follow the procedures set out in the Regulations. In the context of works the Regulations only apply to procurements where the estimated value exceeds £4.73m. Certain types of procurement are exempt under the Regulations in particular "*the acquisition or rental, by whatever financial means, of land, existing buildings or other immovable property*". Public works contracts are defined as having as their "object" the execution, or both the design and execution, of works related to one of the activities listed in the Regulations (i.e. construction, demolition, civil engineering works, plumbing and glazing); or the execution, or both the design and execution of a work; or the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority exercising a decisive influence on the type or design of the work. In this instance the Council is purchasing a form of development designed and built to the Seller's requirements in advance of its completion rather than at completion. In the circumstances the main object of the arrangement is that of a land transaction and therefore it is exempt from the provisions of the Regulations.

From a Real Estate perspective the principal legal risks are any significant title issues. Sharpe Pritchard have now completed their due diligence exercise on behalf of the Council and their title report concludes the title is relatively clear and free of any significant issues such as restrictive covenants or rights which could potentially constrain development or occupation of the units for their intended purpose.

Appropriate collateral warranties for the benefit of the Council in addition to the NHBC warranty and insurance cover for each Home and letters of reliance from the M&E and structural engineer will also be secured as part of the transaction and are included as part of the Handover Requirements.

FINANCIAL IMPLICATIONS AND RISKS

Non Key Executive Decision – Part Exempt Report

The cost of purchasing 36 units is remains at £9.210m as per the Cabinet report in September 2020. A budget of £10m has been approved in the HRA capital programme this year 20/21. This budget has been set aside for this scheme and will be reprofiled across years 20/21 and 21/22 accordingly. Further details are illustrated in Appendix C.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

Properties will be let based on the normal lettings approach to residents on the housing register so there should not be any equalities issues

Health and Wellbeing implications and Risks

It is widely acknowledged that the provision of good quality homes, which are well insulated and free from damp and mould have a significant positive impact on the health and wellbeing of the residents of those homes.

The homes will be built to meet all current Building Control standards and level of insulation will ensure they help to address fuel poverty issues for residents.

The site has been designed to include significant amounts of green space which will be open and available for residents to use, and the scheme is of mixed tenure which will help in breaking down some of the social stigmas which can often be attached to social housing.

Non Key Executive Decision – Part Exempt Report

The site is within easy reach of public transport, both bus routes and mainline trains which open up employment opportunities and will help encourage residents away from using cars as their principle transport

The site is within walking distance of a number of schools, local shops and local amenities including the Ingrebourne Valley Visitor Centre

BACKGROUND PAPERS

None

APPENDICIES

A - Build Contract	Exempt
B - Land Contract	Exempt
C - Payments	Exempt

Non Key Executive Decision – Part Exempt Report

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by Cabinet and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

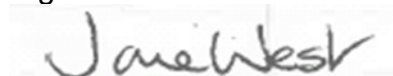
Signed



Name: Patrick Odling-Smee
Date: 15 February 2021

Section 151 Officer

Signed



Name: Jane West
Date: 16/2/21

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Non Key Executive Decision – Part Exempt Report

Signed _____