

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO

Cabinet
07 July 2021

Report Title: Future Provision of Temporary Accommodation

Submitted by: Executive Director Commercial Development and Economic Growth

Portfolios: Community Safety and Wellbeing

Ward(s) affected: All

Purpose of the Report

To inform Members of the progress made with the identification and development of temporary accommodation options for the Borough and to seek approval to make direct contract awards for provision with suitably experienced providers (within the Borough), without a call for further competition (or use of a compliant framework), based on Officer engagement to date and the limited supplier /market responses previously received.

Recommendation

That Cabinet:-

- 1. Supports the planned development of temporary accommodation as outlined in this report to ensure that there is appropriate availability of temporary accommodation in the Borough.**
- 2. Approves the preferred option as outlined in Section 2.7 below, namely the award of contracts for the provision of temporary accommodation by suitably experienced providers, done on an opportunistic basis where necessary without a call for further competition given the circumstances set out in the report.**
- 3. Delegates authority be to the Executive Director, Commercial Development and Economic Growth in consultation with the Portfolio Holder for Community safety and Well Being to directly award (if needs be) a single contract or contracts with an aggregated value exceeding £100,000 per annum to the same supplier if the need arises to secure the provision of suitable and timely temporary accommodation in line with the Council's agreed Temporary Accommodation Policy. Such awards at all times being made within the Council's allocated grant budget.**

Reasons

Officers already have an approved budget and delegated authority to enter into contracts up to the value of £100,000 per annum. That includes the authority to waive competition requirements and approve direct contract awards in appropriate circumstances. Officers wish to provide visibility to their intention to use those powers, in light of the prevailing circumstances, where appropriate. Officers also seek delegated authority to award higher value contracts (at all times within approved budgets), directly if needs be, without the specific prior approval of Cabinet because of uncertainty in fast moving markets. This flexibility would enable the Council to respond rapidly and take best advantage of market conditions in fulfilling its statutory homelessness obligations to provide suitable accommodation for the most vulnerable and those eligible for an interim accommodation solution.

1. **Background**

- 1.1 Under housing and homelessness legislation, the Council has duties to provide interim (or temporary) accommodation to certain households who present as homeless and are considered to be in priority need. In the majority of cases, this is when a household presenting as homeless states that they do not have access to housing and therefore they are placed in temporary accommodation whilst the Council investigates their application.
- 1.2 The Homelessness Reduction Act 2017 widened the Council's duties and means that applicants under the Relief Duty may also be eligible for interim accommodation if required, subsequently to Council's use of temporary accommodation, both in terms of frequency and expenditure has increased significantly over the last couple of years. The impact of the COVID pandemic has also added pressure to the Council in terms of use temporary accommodation.
- 1.3 In addition to households applying to the Council for accommodation under homelessness legislation, other households can require temporary accommodation. This includes people who are rough sleeping, people who require emergency accommodation due to (risk of) fire or flood etc.
- 1.4 Temporary accommodation is an umbrella term and includes supported housing (both social and private rented), hostels and bed and breakfast accommodation.
- 1.5 The use of bed and breakfast accommodation as temporary accommodation is not only expensive and subject to public sector procurement rules, but is considered unsuitable as it is not designed for residential use. In addition, it is unlawful for Councils to allow homeless families with children or pregnant women stay in bed and breakfast accommodation for more than six weeks.
- 1.6 Following a formal Review of Temporary Accommodation in 2020 and a comprehensive market testing and an intelligence gathering exercise, a Temporary Accommodation Policy for the Borough was created and approved by Cabinet in January 2021, outlining the Council's approach in seeking to create alternative options for homeless households, to ensure that the use of temporary accommodation is suitable, cost-effective and meets local needs.

2. **Issues**

- 2.1 The Temporary Accommodation (TA) Review highlighted that options for temporary accommodation in the Borough are extremely limited because the Council has no accommodation of its own and relies on other arrangements with local providers which can be costly. The majority of single person households presenting for assistance are accommodated in short term Bed and Breakfast in the Borough, pending enquiries. There are no hostels for single people in the Borough and the hostels in neighbouring authorities prioritise placements for customers with a local connection to their area so they are rarely available for Borough use.
- 2.2 Officers have been working to formalise a procurement process for TA. The annual expenditure over the last 3 years on temporary accommodation is considered to be significant and has increased substantially over the last 12 months since the pandemic began and the instruction from Government was made to bring 'Everyone In'. In the period 2020/21, over £315,000 was spent on various temporary accommodation options, compared to approximately £135,000 in the previous year.

- 2.3 Attempts have been made to review/benchmark the approaches adopted by neighbouring authorities, the response has been poor and it is believed that the majority adopt a reactive informal spot pricing process in acquiring suitable accommodation outlets, based on any urgent needs that arise.
- 2.4 Attempts have also been made to engage with local temporary accommodation providers (small hotels and B & B), and it is evident that some do not wish to be involved/engage in a compliant procurement process, adopting and offering a 'take it or leave it' approach as the providers state they are able to fill vacant rooms and units without any necessary bureaucratic procedures.
- 2.5 While there is a shortage of available emergency and temporary accommodation in the Borough, there are also issues with customers presenting as homeless, who are owed a duty, but who because of their behaviour or lifestyle choices are excluded from most types of accommodation. The Council still has a statutory duty to accommodate while investigating their homelessness application and generally struggles with solutions. Ideally there would be more available supported accommodation in the Borough to negate the reliance and heavy cost burden of emergency Bed and Breakfast type accommodation. The challenge for the Council is to facilitate the development with specialist partners, more supported accommodation that meets the needs of the Housing register and Homelessness presentations.
- 2.6 Compliance with the Council's governance procedures (procurement) have recently been raised with and reviewed by the Council's Statutory Officers Group (SOG) and there was agreement that based on the Council's need to source a range of TA solutions and the restrictions from local supply chains, alternate approach solutions need to be presented and delivered.
- 2.7 An Exception Report to the Chief Executive dated 23rd April 2021, sought approval for Officers to;
- 2.7.1 Create a select list for emergency access temporary accommodation, in order to facilitate urgent and reactive needs presenting to the service. It is proposed that the select list will be reviewed on a half yearly basis to assess the provision from the range of (24) service providers included within the list. The select list will remain in place for a period of 4 years and it is estimated that the aggregated spend for the reactive service will be in the region of up to £400,000 for the total contract period (based on historic spend data). Alternative procurement routes had been considered, however based on market intelligence and engagement, it is believed that the number of responses would, in the main be minimal, if any responses were received at all.
- 2.7.2 Extend the arrangement of the existing Bronze temporary accommodation supported housing units from 2 to 4 (which had already been procured through a market testing exercise with limited response), from the existing provider, as a direct award of contract without a further call for competition, based on officer engagement and the limited supplier /market responses previously received. The current service is initially for 12 months (until the 31st March 2022) and Officer also recommended to add an option to extend for a further 2 + 2 years, subject to an initial satisfactory review of the provision/service delivery in each preceding period. The estimated aggregated spend for this service over the total contract period will be in the region of up to £150,000. This would enable Officers to concentrate on the longer term development of alternative solutions for supported temporary accommodation in the Borough, to support the acute business need.

2.7.3 Permit Officers to encourage, through the Council's strategic enabling role, the setup of suitable temporary accommodation with low/medium levels of support, as a Partnership arrangement willing local providers, with social housing stock and expertise with supporting homeless households in Staffordshire. This may necessitate provision of small scale 'start up' funding, from MHCLG homelessness grant allocations, to cover the cost of furnishings and to enable a longer term model of accommodation that could then be funded through IHM / Housing Benefits or may enable the Council to develop specialist floating support with a specialist partner to support sustaining temporary accommodation placements. Officers propose that the MHCLG homelessness uplift grant (anticipated to be in region of up to £60k for 20/21) is used creatively with local specialist providers to meet the needs of the customers. Again faced with a restricted supply base this may necessitate a direct award of contracts without a call for competition and establishment of a budget for the service direct costs being attributed to the Council.

2.7.4 Enable Officers to work with willing specialist homelessness and social housing partners, operating in the North Staffordshire conurbation, to create alternative supported temporary accommodation options for customers with complex needs, to achieve available external funding from MHCLG and Homes England grants. Based on the limited supply base (based on recent market engagement) Officers sought to make any direct contract award/s without a call for formal competition. Officers also highlighted the need to consider the introduction of a budget for this service as there may be the need for requests of match funding from the Council to facilitate this development, albeit further approval would be sought in due course as appropriate/if necessary.

3. **Proposal**

- 3.1 That Cabinet support the planned development of the preferred temporary accommodation options as outlined in Section 2.7 above of this report and authorise Officers to continue the development of temporary accommodation options to ensure that there is appropriate availability of temporary accommodation in the Borough.
- 3.2 That Cabinet note that in developing the preferred options contracts may be directly awarded without competition in appropriate circumstances in light of the limited and fast-paced market provision in this sector. That the preferred option is approved and an exception to Council Contract Procedure Rules is agreed to enable a direct contract awards without a call for competition for the provision of temporary accommodation by suitably experienced providers as set out in the report in Section 2.7.2 – 4 above.
- 3.3 That Cabinet note that all expenditure will be within the Council's allocated grant budgets as set out above in para 8.3, and contract awards made mainly under existing officer delegations. However, there may be exceptional circumstances where a need arises to let a single contract or contracts with an aggregated value exceeding £100,000 to the same supplier, perhaps on a direct award basis. This report seeks delegated authority to do this without specific prior Cabinet approval so that the council is best place in terms of its flexibility and responsiveness to take advantage of market opportunities.
- 3.4 Officers continue to work with MHCLG on a number of funding streams to support a range of services linked to rough sleeping, temporary accommodation and accommodation to support those fleeing domestic abuse. As such there is a requirement to spend money expeditiously, utilising local partners and neighbouring authorities to identify and commission appropriate service delivery mechanisms/options and to undertake direct awards (without a call for competition) in line with the Borough Council's requirements and based on the niche delivery requirements of these services, subject to specialist service

availability. In order to do this Officers are seeking delegated approval to the Portfolio Holder to approve the expenditure of such monies based on the recommendations made by Officers.

4. **Reasons for Proposed Solution**

- 4.1 This report seeks Members approval for Officers to continue the development of temporary accommodation options in the Borough, using existing homelessness base budgets and new income generated from grants, without the need for further competitive tendering to enable the Council to meet its responsibilities to people who are homeless or threatened with homelessness in Newcastle-under-Lyme. This would enable the Council to fulfil its statutory homelessness obligations and provide suitable accommodation for the most vulnerable and those eligible for interim accommodation.
- 4.2 The Temporary Accommodation Review in July 2020, demonstrated that the provision and use of specialist temporary accommodation is more cost effective than B&B accommodation, which also doesn't have the added advantage of support services and is most beneficial to assist vulnerable customers access more sustainable housing options.
- 4.3 Whilst there remains an ongoing reactive/urgent need for short term placements in temporary accommodation, this will be managed initially via a select list of providers being 'spot priced' as and when there is an urgent need, with Officers aiming to limit the duration of stay at such TA. The proposals outlined in Section 2.7 above would enable the Council to meet the statutory homelessness duties more effectively and to have more control over the increasing expenditure of the TA used and create additional temporary accommodation options.
- 4.4 Officers have established that a number of other Local Authorities do not follow a formal procurement route for the use of temporary accommodation and supported accommodation in place, because of the strategic enabling role of a District authority and the unpredictable urgency of the need. There has been limited market engagement prior to the last 12 months but Officers have made considerable efforts to engage the market to no avail. A small number of specialist local housing and support providers have indicated a willingness to engage. The removal of the competitive tendering requirement in appropriate cases is led by experience of limited market provision and enables the council to respond to acute need rapidly.
- 4.5 The requested exemption from competitive tendering requirements if provided for in the council's Contract Procedure Rules under clause 4.1(f):

4.1(f) "In any case of work to be executed or goods or services to be supplied the Authorised Officer, in consultation with the Section 151 Officer, decides that there can be no genuine competition"

5. **Options Considered**

- 5.1 All available options have been explored through the recent outcomes of Temporary Accommodation Review and subsequent and market engagement and testing.

6. **Legal and Statutory Implications**

- 6.1 The Housing Act 1996, Part VII (as amended) sets out the circumstances when a local authority is required to provide temporary accommodation to homeless households. The expectations for this temporary accommodation are then set out in the Homelessness (Suitability of Accommodation) (England) Order 2012.

- 6.2 Other relevant statutory guidance includes.
- Homelessness Act 2002
 - Homelessness Code of Guidance for Local Authorities 2006
 - Homelessness (Suitability of Accommodation) Order 1996
 - Homelessness (Suitability of Accommodation) (England) Order 2003
 - Localism Act 2011 (Commencement No 2 and Transitional Provisions) (England) Order 2012
 - Supplementary Guidance on Changes in Localism Act 2011
 - Supplementary Guidance on Domestic Abuse and Homelessness 2014
 - Homelessness Reduction Act 2017.
- 6.3 Not having a fit for purpose service will leave the Council open to a legal challenge.

7. **Equality Impact Assessment**

- 7.1 Temporary accommodation placements are made purely on merit and there are no disproportionate outcomes to any cohort.

8. **Financial and Resource Implications**

- 8.1 The proposed expenditure for temporary accommodation enables the Council to improve the availability and options for temporary accommodation in the Borough and may, in the longer term, contribute to reducing revenue costs to the Council's General Fund for use of emergency accommodation. In previous reports it was recognised that achieving reductions in expenditure may take some time and that some initial investment in capacity would be required to take this work forward with local providers.
- 8.2 The procurement of temporary accommodation will be facilitated using existing Council resources from the Partnerships Team, with support from Business Improvements and Legal services.
- 8.3 A financial budget allocation is required for the provision of temporary accommodation for 2021/22. This has been sourced from existing homelessness base budgets and new income generated from grants from MHCLG. The anticipated homelessness grants for expenditure for 21/22 are expected to be in the region of approximately £198k. Of this approximately £120k is already allocated towards existing expenses such as emergency accommodation costs, the Rough Sleepers Navigator role and the planned shared Rough Sleepers Co-ordinator and Healthcare worker roles with the City Council. The remainder of the grants received would be used for the development of a range supported temporary accommodation options with local specialist providers as described in 2.7.3 and 2.7.4 above.
- 8.4 Any expenditure will be within approved budgets as set out above in para 8.3 under existing officer delegations but in exceptional circumstances there may be a need to let a single contract or contracts with an aggregated value exceeding £100,000 to the same supplier. This report seeks authority to do this.
- 8.5 For information, the Council is also working with local specialist providers to develop a further partnership proposal to the MHCLG Rough Sleepers Accommodation Programme (RSAP), seeking funding to facilitate units of accommodation specifically for rough sleepers. It is intended that this funding application would be led by the Borough Council, in partnership with one or more local housing providers, who are able to contribute an element of match funding for the scheme. Any funding achieved from the RSAP would be payable

to the provider, so while this could not be used to offset direct costs of the provision of temporary accommodation to the Council, there would be a direct referral route through to the properties (if successful), which could reduce the burden on other temporary accommodation expenditure to the Council.

9. **Major Risks**

- 9.1 There is a risk that this provision is insufficient to meet rising demand and additional temporary accommodation options may be required to assist the Council in fulfilling its statutory obligations.
- 9.2 There is a risk of reputational damage to the Council if it does not deliver its statutory duties lawfully and effectively.

10. **UN Sustainable Development Goals (UNSDG)**

- 10.1 The proposed approach to temporary accommodation provision for the Borough supports UNSG and Climate Change objectives in a number of ways. Principally, through partnership working and supporting sustainable cities and communities via the correct use of public monies. The following UNSGs are supported.



11. **Key Decision Information**

- 11.1 This report can be considered key in the following ways: -
 - It results in the Borough Council committing existing resources for the function to which the decision relates and;
 - To be significant in terms of its effects on communities living or working in an area comprising two or more electoral wards in the Borough.

12. **Earlier Cabinet / Committee Resolutions**

- 12.1 Temporary Accommodation Provision from 1st November 2020 - 31st March 2021 – October 2020.
- 12.2 Temporary Accommodation Policy 2020 – December 2020.

13. **List of Appendices**

- 13.1 None.

14. **Background Papers**

- 14.1 Temporary Accommodation Review July 2020.
- 14.2 Temporary Accommodation Policy 2020.