

<b>Cabinet</b> 3 December 2014	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Development & Renewal	<b>Classification:</b> Unrestricted
<b>Renewal of Temporary Accommodation Lease – Relta Ltd</b>	

<b>Lead Member</b>	Councillor Rabina Khan, Cabinet Member for Housing and Development
<b>Originating Officer(s)</b>	Service Manager, Housing Options & Procurement
<b>Wards affected</b>	All wards
<b>Community Plan Theme</b>	A Great Place to Live
<b>Key Decision?</b>	Yes

### Executive Summary

Approval is sought to agree the signing of a new lease for 34 properties supplied by Relta Ltd for use as temporary accommodation for homeless households, on or before the demise of the existing lease on 1 June 2015.

### Recommendations:

The Mayor in Cabinet is recommended to:

1. Note that a ten-year lease with Relta Ltd for the use of 34 properties within Tower Hamlets, currently used as temporary accommodation for homeless households is due to expire on 1 June 2015.
2. Agree to a renewal of the lease for a period of five years at an estimated gross cost of £3.7million, with the option to extend for a further five years, and subject to agreement on Heads of Terms.
3. Authorise the Head of Service, Housing Options to agree revised Heads of Terms or, if satisfactory Heads of Terms cannot be agreed, to return vacant possession of the 34 properties to Relta Ltd.

## **1. REASONS FOR THE DECISIONS**

- 1.1 34 Properties are currently occupied by households to whom the Council owes a statutory homeless duty.
- 1.2 If there is no agreement to renew the lease it will be necessary to transfer the occupants to alternative accommodation.
- 1.3 Over the last 18 months there has been a steady decline in the number of properties available for use as temporary accommodation within Tower Hamlets. The loss of these properties will represent a further loss of properties within the Borough which are unlikely to be replaced, meaning the current occupants will almost certainly be required to move to accommodation out of the Borough.
- 1.4 The Council is liable for void payments on these properties once they have been made ready to let. It is highly unlikely the Council will be able to co-ordinate the decanting of the tenants upon the demise of the existing lease resulting in either a void liability where tenants are moved before this date or the potential for a claim for compensation if we do not deliver vacant possession by this date.
- 1.5 The owner of the properties has indicated their willingness to revise the Heads of Terms in the Council's favour, reducing the rents back to Temporary Accommodation Subsidy levels upon the date of renewal and amending the annual uplift clause to CPI from RPI, thereby achieving a potential saving to the Council of approximately £500,000 over five years.
- 1.6 If the Head of Service, Housing Options, is not satisfied with the revised Heads of Terms, the council will not enter into a new lease with Relta Ltd, will return vacant possession of the properties, and will rehouse the current occupants in alternative accommodation.

## **2. ALTERNATIVE OPTIONS**

- 2.1 To place all of the current occupants on the transfer list, currently around 300 households.
- 2.2 To strive to transfer those households to alternative temporary accommodation – almost certain to be out of the borough – by the date the lease demises.
- 2.3 To become liable for the rent on all properties that become void between now and 1 June 2015. The average weekly rent for these properties is £415.28.
- 2.4 To accept the risk that a failure to deliver vacant possession on any of the properties by 1 June 2015 could result in legal action being taken by the company against the Council. Costs of same not possible to quantify at this stage.

### **3. DETAILS OF REPORT**

- 3.1 The Council entered into a lease for 34 properties with Relta Ltd in 2005. The properties form a part of the Council's temporary accommodation portfolio, and are a valuable part of the diminishing number of properties available within the borough. It includes a high proportion of family-sized properties, comprising 1 x 5 bedroom; 8 x 4-bedroom; 9 x 3-bedroom; 6 x 2-bedroom and 10 x 1-bedroom properties. Officers have calculated that if agreement on the revised heads of terms, as outlined in the report, is reached there is a potential saving to the council of £500k over the five year life of the lease in comparison with current prices.
- 3.2 At the time the original lease was negotiated there were no limits on the amount of Housing Benefit subsidy payable to local authorities for self-contained temporary accommodation.
- 3.3 In 2010 the Government applied limits to the amount of subsidy payable for temporary accommodation. This is currently set at 90% of the January 2011 Local Housing Allowance + £40 per week.
- 3.4 The rents on these properties are substantially above the subsidy level, such that the Housing Options Service was considering handing them back at the termination of the lease. The current net annual cost to the Council of using these properties is £104,000pa.
- 3.5 The current lease specifies an annual rent increase equivalent to RPI.
- 3.6 The property owner has since indicated their willingness to reduce the rents upon demise of the current lease, closer to Temporary Accommodation Subsidy levels.
- 3.7 They have also indicated their willingness to amend the uplift clause from RPI to CPI which will help limit future costs assuming Temporary Accommodation Subsidy levels are not increased.
- 3.8 The Council is also seeking agreement to limit the term of the lease to five years, with an option to renew should the needs of the service justify this. This will enable a more timely response to changed market conditions.
- 3.9 In the event that the Council is unable to reach agreement to renew the lease it will have no alternative but to transfer the existing residents. There is an acute shortage of in-borough temporary accommodation reflecting the high level of market rents in Tower Hamlets. Currently 90% of all new temporary accommodation procured is out of the borough meaning the transfer of these tenants is almost certain to be outside Tower Hamlets. The loss of this number of family-sized properties will be a significant blow to the Housing Options service which has been working hard to retain as much of the in-borough portfolio as possible.

- 3.10 Notwithstanding the above, in the event that the negotiations with Relta Ltd do not yield an agreement that is to the satisfaction of the Head of Service, Housing Options, the council will return the properties to Relta Ltd, having rehoused the households currently residing in them.

**4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1. This report seeks approval to renew the lease for the use of 34 properties owned by Relta Ltd, following the expiry of the existing ten year lease in June 2015.
- 4.2. As stated in paragraph 3.2, when the lease was originally entered into in 2005, the net costs to the Council of using this accommodation were marginal, with the costs of the lease payments to the landlord being met through a combination of rental income from residents and housing benefit payments which were recoverable from the Department for Works and Pensions (DWP).
- 4.3. Following the extension of the Local Housing Allowance based subsidy scheme to people living in temporary accommodation from April 2010, the Government introduced a cap on the level of benefits paid that were eligible for Housing Benefit Subsidy. This means that although a household may be eligible for full benefit on a property, the amount of the benefit that the Council can recover from the DWP in Housing Benefit Subsidy is capped. The impact of this is a net charge to the Council's Housing Benefits budget.
- 4.4. The Housing Benefit Subsidy cap for temporary accommodation is currently 90% of the January 2011 Local Housing Allowance + £40 per week (see paragraph 3.3). These levels are significantly below the rental charges on these particular properties, meaning that the Council incurs net costs of approximately £100,000 per annum on these 34 units i.e. the statutory benefits that the Council must pay on these properties exceed the sum recoverable from the DWP.
- 4.5. As a result of this on-going liability, consideration was being given to terminating the arrangements with Relta at the end of the ten year lease period in 2015, however the proposal to reduce rents to nearer to the temporary accommodation subsidy level, as well as linking increases to the Consumer Price Index (CPI), on which the changes in subsidy eligibility are based, rather than the higher Retail Price Index (RPI) , means that the future net cost to the Council will be significantly reduced. If the rental level is brought to the subsidy cap level, then, based on the current subsidy legislation, net costs will be reduced by approximately £500,000 over the five year contract term (paragraph 1.5).
- 4.6. It should be noted that if the Council extends the lease term it will continue to be liable to pay the full leasing charge whether the properties are let or not.

The properties will therefore require careful management to ensure that void periods are kept to a minimum.

- 4.7. By extending the lease the Council will avoid the need to relocate the existing occupants of the 34 units. This will avoid the potential for properties to be kept void and the resulting rental loss (paragraph 1.4) and the costs involved in relocating households, as well as reducing the pressure on the service to procure appropriate accommodation in a market of limited supply (paragraph 3.9).
- 4.8. Although the gross leasing costs over the full five year term will total approximately £3.7 million, these costs will be paid monthly at a rate of approximately £61,000 per month. The income received by the Council in respect of the rents levied on these properties will be credited weekly.

## **5. LEGAL COMMENTS**

- 5.1 The Council has a duty under the Housing Act 1996 to secure that accommodation is available for eligible applicants who are homeless, in priority need and not intentionally homeless. The Council may discharge its duty by –
  - Securing that suitable accommodation provided by the Council is available to the person
  - Securing that the applicant obtains suitable accommodation from some other person
  - Giving the applicant advice and assistance such as will secure that accommodation is available from some other person.
- 5.2 The Council is required, so far as is reasonably practicable, to secure accommodation in Tower Hamlets (Housing Act 1996, section 208(1)). The clear intention is that local authorities should not simply decant homeless persons into areas for which other authorities are responsible. However, the High Court has made clear that in areas of acute affordable housing shortage a local authority may decide that it is not reasonably practicable to accommodate people in its area. There is information set out in the report relevant to whether it is reasonable for the Council to take the proposed lease and thus maintain accommodation in the borough.
- 5.3 The Council is specifically empowered by section 120 of the Local Government Act 1972 to acquire land by agreement if it is (relevantly) for the purposes of any of the Council's functions.
- 5.4 It is proposed to provide vacant possession to Relta Ltd in the event that appropriate terms cannot be agreed. Sufficient time must be allowed to achieve this as possession proceedings may sometimes be required to deliver vacant possession.
- 5.5 In determining whether or not to take the lease the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010,

the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty). There is information set out in the report relevant to these considerations.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1. The council's stock of temporary accommodation is used to house homeless households who would otherwise struggle to find accommodation in the private rented sector. BME and single parent families are disproportionately represented amongst the households who occupied temporary accommodation.
- 6.2. At the time of writing of the current occupants of the properties, 24 (75%) are of Bangladeshi origin; 6 (19%) are Black African and there is one family each of White British, Black British and White European origin, with one property void.
- 6.3. 11 (32%) of the households are headed by lone parents, of which ten are women.
- 6.4. Renewing the lease for the 34 properties, for a further five years will provide stability for those families, and provide them with some security while efforts are made to secure a suitable final offer of accommodation.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 Not applicable

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1. The proposal reduces the risk of legal challenge by the owner of the properties in the event the Council is unable to deliver vacant possession by the date of the demise of the current lease.
- 8.2. It also mitigates the risk of financial loss in the event that properties are decanted in advance of the lease's demise.
- 8.3. It also mitigates the risk of legal challenge under S204 of the 1996 Housing Act by homeless households who may consider any alternative offer of accommodation is unsuitable.

## **9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 9.1 Not applicable.

## **10. EFFICIENCY STATEMENT**

- 10.1 If agreement on revised heads of terms as outlined above is reached there is a potential saving to the Council of £500k over the life of the lease in comparison with current prices.
  - 10.2 Unquantifiable savings could also be achieved by not needing to move these households to more expensive nightly-let accommodation out of the Borough.
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### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- None.

#### **Appendices**

- None.

#### **Background Documents – Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012**

- None.

#### **Officer contact details for documents:**

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