

OXFORD CITY COUNCIL

HOUSING ADVISORY BOARD 27th MAY 2005
EXECUTIVE BOARD 13th JUNE 2005
COUNCIL 20th JUNE 2005

Report of: Monitoring Officer

Title: Stock Options Appraisal – Decision Making Process

Ward: n/a

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Key Decision: Yes

Lead Member: Leader/Deputy Leader/Councillor Turner

Scrutiny responsibility: Housing Scrutiny; Finance Scrutiny

RECOMMENDATION

That in making decisions arising from the Stock Options Appraisal members have due regard to all relevant matters.

Summary

1. This report seeks to ensure that the decision making process for the Stock Options Appraisal is fully compliant with the requirements of the constitution, is demonstrably accountable and transparent and shows that members have fully considered all relevant matters.

Principles of decision making

2. The City Council is committed in its constitution (Article 13.02) to the following principles of decision making:
 - (a) proportionality (i.e. the action must be proportionate to the desired outcome);

- (b) due consultation and the taking of professional advice from officers;
 - (c) respect for human rights;
 - (d) a presumption in favour of openness;
 - (e) clarity of aims and desired outcomes.
3. In making this decision it is important that members have due regard to all the information relating to the appraisal in the report of the Project Team and its appendices including the independent financial appraisal by Butlers and the report of the Strategic Director for Finance & Corporate Services to the Finance Scrutiny Committee on 27th May 2005.
4. As part of the decision-making process undertaken by the Council in regard to the Stock Options Appraisal, the documentation circulated has, of course, received significant legal input. So that members can be satisfied that from a legal perspective information to be considered by them has been properly appraised, it is thought useful that members consider the summary report of the independent legal advisor attached as an appendix.

STOCK OPTIONS APPRAISAL REPORT

LEGAL IMPLICATIONS ADVICE

1. INTRODUCTION

When Members are considering the stock options appraisal it is important, as highlighted in the Legal Implications in the report that Members have regard only to relevant considerations and disregard irrelevant considerations. We have been asked to provide advice to Members to assist them in addressing those considerations.

2. THE OPTIONS

2.1 As highlighted in the report there are five options available to a Local Authority to reach the Decent Homes Standard, namely PFI, stock transfer, stock retention, ALMO and finally a mixed solution.

2.2 PFI

A HRA PFI project is not seen as a whole stock solution. PFI schemes are very complicated to put together and, whilst the Government has amended some of the rules relating to PFI, it still remains a very costly and time consuming initiative to embark on. Whilst PFI provides additional private finance in order for a Local Authority to bring its homes up to at least a Decent Homes Standard by 2010, with potentially some extra funding for other improvements, the Council under this option would be unable to undertake all the repairs to its properties in order to reach the Decent Homes Standard by 2010 for all of its properties.

2.3 Stock Transfer

The report highlights that stock transfer is the only option that could fully fund the Oxford Standard and leave significant resources over for investment in new housing. Stock Transfer could leave the Council with or otherwise produce (for sharing with the new Landlord)

- (i) a potentially significant capital receipt;
- (ii) future preserved Right to Buy receipts; and
- (iii) significant savings attributable to a VAT Saving Scheme entered into as part of the stock transfer.

There is however a significant risk that needs to be accounted for in pursuing stock transfer as an option, as it is subject to a positive ballot of tenants. Tenants have indicated that they are opposed to transfer.

2.4 **ALMO Option**

Setting up an ALMO would, subject to

- (i) the ALMO receiving a 2 star rating for its landlord services; and
- (ii) approval of a place on the ALMO programme,

enable the Council to receive the additional investment needed to reach the Decent Homes Standard by 2010. The ODPM may also allow up to 5% of the ALMO bid to be spent on environment or other works not directly contributing to Decent Homes. On the assumption that the ALMO bid could be in the region of £22 million (paragraph 8.8.11) the additional allowance for environmental and other works might be in the region of £1.1million.

2.5 **Stock Retention**

As highlighted in the report the retention strategy is unable to meet the Oxford Standard but the report states that the minimum Decent Homes Standard can be achieved through use of unsupported borrowing and revenue surpluses. Members need to be satisfied that this solution is fundable in the short, medium and long term. In this regard Members need to be satisfied that the revenue and capital assumptions set out respectively in paragraphs 8.5 and 8.6 of the report are reasonable. These are crucial assumptions given, as stated in the report, that the retention strategy involves a long term commitment to tight management of the HRA as stated in paragraph 6.2.8 and further that “keeping the HRA in balance with this level of RCCOs in the longer term will represent a substantial challenge” (paragraph 8.8..5).

Members should be aware that if the retention strategy does not meet the Decent Homes Standard then the Council will need to again consider its stock options. Whilst it is not possible to be definitive about what may or may not be available at that particular time, it is unlikely that the PFI option will at any time in the near future become a whole stock solution. Whilst the Government has announced a round 6 ALMO programme there is no indication from the Government that any further ALMO programme would be announced and an application from the Council for Decent Homes funding in the context of a previously adopted retention strategy will face difficulties. Stock transfer may therefore need to be considered at some future date as the option to achieve the Decent Homes Standard should the retention option fail.

2.6 **Mixed Solution**

A mix of options relates to a combination of different options for the stock so that property types or areas are sectioned off for a particular option. For example there could be a partial transfer and retention, PFI and ALMO or a mix of all the options. Most local authorities have found this mixed solution very difficult to implement which is presumably why little emphasis has been placed on this solution in the report.

3. **EVALUATION MATRIX**

Finally, Members need to be satisfied that the methodology for evaluating the various options is reasonable. This is set out in the matrix at paragraph 8. As highlighted in the Legal Implications Section of the report Members should be satisfied that the weightings and scorings of the evaluation criteria are reasonable.

4. **CONCLUSION**

The Stock Options Appraisal Report has been prepared by the Council's professional officers with the help and support of consultants of various disciplines who are well known in their respective fields. This advice only addresses the Legal Implications of the stock options appraisal report and is intended simply to help Members with their decision making process.

Trowers & Hamlins