

REPORT FOR DECISION



DECISION OF:	CABINET
DATE:	10th JUNE 2020
SUBJECT:	SPRINGS TENANT MANAGEMENT ORGANISATION – PROPOSAL TO BECOME A SELF-FINANCING TENANT MANAGEMENT ORGANISATION.
REPORT FROM:	Councillor C Cummins, Cabinet Member for Housing
CONTACT OFFICER:	Jackie Summerscales, Principal Strategy Officer, Business Growth & Infrastructure
TYPE OF DECISION:	EXECUTIVE - KEY DECISION
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This report seeks approval for Springs Tenant Management Organisation to become a self-financing tenant management organisation, to enable them to manage the Springs Estate more effectively, build resilience in the community and improve tenant satisfaction and neighbourhood regeneration.
OPTIONS AND RECOMMENDED OPTION	<p>Option 1 (recommended)</p> <ol style="list-style-type: none">1. Support the proposal for Springs Tenant Management Organisation to become a self-financing tenant management organisation, subject to a formal ballot of tenants on the Springs Estate.2. Approve the arrangements for implementation as set out in this report. <p>Option 2</p> <p>Do nothing – The Council would continue to manage the Springs Estate.</p>

Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	The financial implications and risks are set out in the report. From a council perspective there should be a small saving on the Housing Revenue Account if the recommended option is approved. The reserves held by the Tenant Management Organisation will remain with them regardless of whether the self-financing option is pursued. Robust arrangements must be provided for in the management agreement to monitor the on-going viability of Springs Tenant Management Organisation and protect the Council's assets.
Equality/Diversity implications:	None.
Considered by Monitoring Officer:	This report sets out proposals for an extension to the current Springs TMO management agreement. The process must follow the Housing (Right to Manage) (England) Regulations 2012, which give TMO's the right to manage and propose to their local authority, how that should operate. The process outlined in the report is in accordance with those regulations and has had the benefit of legal advice. Further legal input will be required in finalising the management agreement.
Wards Affected:	Redvales.
Scrutiny Interest:	Overview and Scrutiny Committee.

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 Springs Tenant Management Organisation (STMO) was established in 1996 to empower tenants in the decision making process and management of the Springs Estate in Redvales Ward, Bury, on behalf of the Council.
- 1.2 At that time, the Springs Estate was one of the most unpopular areas in the Borough. Properties were difficult to let and there were high levels of rent arrears, voids and anti-social behaviour. Since their appointment, performance in all areas has increased significantly and this estate has become a place where people choose to live.
- 1.3 STMO are currently responsible for providing a range of estate management services to 294 social-rented properties (mainly flats) in the locality, for an annual management fee/allowance. This includes rent collection, lettings void management and day to day repairs. They do not manage the capital programme, gas servicing, administration of right to buy and services to leaseholders, all of which are currently provided by Six Town Housing (STH) and grounds maintenance provided by the Council. The proposed management fee/allowance for 2020/21 (based on 294 properties) is £534,478.
- 1.4 In the past, STMO considered undertaking a small scale voluntary transfer to take ownership of the Springs Estate from the Council. This appeared to be a viable option at the time under the old rent subsidy model, although it did present the Council with some issues in relation to the short term impact on the Housing Revenue Account (HRA). However, following the abolition of the HRA subsidy system and the redistribution of debt, this is no longer viable and STMO are now looking at becoming a self-financing tenant management organisation, subject to Cabinet approval and a formal ballot of tenants on the Springs Estate.
- 1.5 The self-financing concept is not new but it is uncommon. Leathermarket Joint Management Board (LJMB) in Southwark, London undertook such a transfer in 2014, to enable them to manage their neighbourhoods more effectively. Accordingly, they became the first self-financing tenant management organisation in the country and, are currently responsible for 1,500 homes (1,100 tenants and 400 leaseholders). Prior to the transfer, there was much dissatisfaction from tenants particularly around the lack of investment in their homes. However, since the appointment of LJMB, major repairs have doubled and tenant satisfaction has increased.
- 1.6 Therefore, officers from the Council and STMO have been working together to adapt the model for STMO. This will include new governance, monitoring and contractual arrangements.
- 1.7 If the proposal is approved STMO will become the first self-financing tenant management organisation in the North West and only the second in the country. It also supports the Council's ambition to empower residents and place communities in control.

2.0 SELF FINANCING MODEL

- 2.1 Under the self-financing model STMO and their tenants, as shareholders, would have much greater financial responsibility, as they would be responsible for all housing management services including the capital programme, gas servicing, administration of right to buy, grounds maintenance and provision of services

to leaseholders (there are currently 41 leaseholders).

- 2.2 The self-financing model would pay STMO an enhanced management fee/allowance, equivalent to the annual rent and service charge income that they collect (generally around £1m), as the Council will remain the landlord. The budgeted figures for 2020/21 total £1,034,500; £1,026,600 is rental income with the remaining £7,900 being leaseholder service charge income. However the actual amount that STMO would be paid will be what they actually collect. This figure will vary depending on a number of factors including how many sales there are in any given year, how many empty properties there are and for how long, how many properties move to target rent during the year and, how successful STMO are at actually collecting the rent that is due.
- 2.3 STMO would be responsible for any costs involved in managing the properties, over and above those already provided for in the management fee/allowance. In addition, STMO will have to pay the interest charge for the debt that is attributable to the properties they manage.
- 2.4 As a result, the Council will not be responsible for payment of any capital works on the Springs Estate. The current management fee/allowance for STMO is included in the annual management fee/allowance paid by the Council to STH, who then pay STMO. Therefore, if this proposal is approved, the management fee paid to STH will be reduced.
- 2.5 Recently, the Strategic Business Manager Finance (STH/Bury Council) produced a self-financing business plan model for STMO, along with comparisons of the current HRA income/costs against the self-financing proposals, to assess both viability for STMO and the net impact on the Council's HRA.
- 2.6 This information was reviewed by external consultants commissioned by STH on behalf of the Council and, demonstrates that STMO should be able to cover their future management costs, providing rents continue to increase on an annual basis as assumed in the model. It also shows that the HRA would actually have an initial annual saving of £76k from the self-financing arrangements, given that the current management fee/allowance and other HRA expenditure on these properties exceeds the net rental income.
- 2.7 It should be noted, for accounting purposes, rental income from all Council stock (whether managed by STH or STMO) would be retained by the Council in a single HRA. Therefore, this proposal is not expected to affect the Council's ability to borrow through the HRA.
- 2.8 A new modular management agreement is currently being developed to support these arrangements and meet the specific needs of the model.

3.0 BENEFITS/VALUE FOR MONEY

- 3.1 This proposal supports the ambitions of the emerging Bury 2030 Strategy in terms of empowering communities to build capacity, improve outcomes and ensure a more sustainable future. Tenant Management Organisations are proven models of community control that can improve service quality, secure better value for money and boost satisfaction. They generally work very well with socially excluded groups and can play an important role in neighbourhood regeneration.

- 3.2 Strengthening STMO will encourage active intervention and expand community led inspiration and capacity. It will also enable them to tackle inequality more effectively which, in turn, supports inclusive growth. If this proposal is approved, it could inspire more communities to engage and take a lead in their local area.
- 3.3 In terms of value, there would be a small net benefit to the HRA as mentioned in paragraph 2.6 above. However, this proposal is more about 'added value' - building resilience, encouraging tenants to take responsibility for their homes and, supporting STMO (who have been successfully managing the Springs Estate for over two decades) to manage the estate more effectively and improve neighbourhood regeneration. Furthermore, there has been a lot of interest in this proposal from the Ministry of Housing, Communities and Local Government (and its predecessors).
- 3.4 The proposed new management arrangements would give STMO and their tenants more flexibility and choice over the way in which their services are delivered and, greater control over the capital programme which would allow them to prioritise spend. Evidently, local people are best placed to know their housing needs and, approval of this proposal will ensure they get the best possible service.
- 3.5 Additionally, STMO would have the freedom to commission alternative service providers/contractors to meet their needs and generate efficiencies if they choose to, after an initial 12 month period.

4.0 LIABILITIES AND ASSOCIATED RISK

- 4.1 The Council should be mindful of the potential health and safety risks if STMO choose to procure alternative service providers/contractors, particularly around gas servicing/safety. It is essential that alternative providers/contractors are competent and suitably qualified to undertake gas safety management in social housing. Accreditation requirements will be stipulated in the new management agreement, together with monitoring arrangements to mitigate risk and ensure compliance.
- 4.2 The Council's legal responsibilities for the properties it owns on the Springs Estate would remain unchanged, as it will still owe a duty to the tenants. The Council will be accountable to the tenants if STMO underperform and, will be liable for any third party claims as it is with STH. Therefore, agreeing to extend the range of management responsibilities to STMO increases the level of risk to the Council. However, STMO have an excellent track record for service delivery and the new governance and monitoring arrangements that are being put into place will help ensure that any issues are identified and addressed, before they became financially or legally significant.
- 4.3 The Council's annual rent setting process could affect the viability of the self-financing business model. The model assumes an annual rent increase of CPI + 1. If a lower increase is agreed by the Council at any time in the future, the business model would have to be adjusted accordingly.
- 4.4 The tenants will still have the ability to purchase their home under the Right to Buy. A significant increase in the number of right to buy sales could adversely affect the business model, together with inflation increases above the rates of rent increases.

- 4.5 The enhanced management fee/allowance would be paid to STMO in arrears, based on the rent that they actually collect. Therefore, if their rent collection performance was to deteriorate significantly, they may not have enough revenue to cover their costs. However, this is unlikely as performance in this area has been very strong over the last decade, exceeding targets and comparable benchmarks.
- 4.6 STMO operating independently may fail to undertake necessary repairs/capital maintenance. However, STMO have an excellent track record in delivering their current duties and this risk is felt to be minimal.
- 4.7 Stock investment costs could be greater than those assumed in the business model. This is a particular risk if the Government revises the Decent Homes Standard to improve energy efficiency in association with the carbon neutral agenda and fire safety, following Grenfell.
- 4.8 The management fee/allowance could be insufficient, particularly for the management of future capital programmes.
- 4.9 However, the above can be offset by the forecast surpluses that this stock could make in future years. In addition, STMO have built up reserves of approximately £2m over the last twenty four years, as a result of prudential financial management and the prescribed formula based management fee paid by the Council, which has provided an inflationary increase every year. Evidently, the Council does not have any claim on this money, as retention of surplus is permitted under the terms of the existing management agreement.
- 4.10 This surplus can be utilised by STMO for any housing related purpose permitted by their constitution and, will provide some degree of reassurance should the business plan be impacted by any unforeseen costs e.g. changes in Decent Homes requirements.
- 4.11 It should be noted that STMO have used this money over the years to undertake capital works on properties on the Springs Estate, thus reinvesting in the Council's assets.
- 4.12 It is imperative that tenants, as members of the tenant management organisation, are made aware of these additional responsibilities. Accordingly, the Council, as landlord, will issue a 'Proposal Notice' to all tenants explaining the pros and cons of self-financing/importance of voting, prior to a formal, secret ballot in accordance with the Housing (Right to Manage) (England) Regulations 2012.
- 4.13 The ballot is essential as the self-financing proposal is a significant change to the existing management agreement. Undertaking such a test of opinion is felt to be good practice and, the Council must ensure that tenants are aware of the risks and have an active and participatory role in influencing the outcome of the ballot. However there is no minimum turnout requirement within the Regulations and, there is a risk that a low number of residents may determine the future financial liabilities of all tenants. In order to mitigate this risk, STMO have agreed a minimum turnout of 15%.

5.0 GOVERNANCE MONITORING AND CONTRACTUAL ARRANGEMENTS

- 5.1 STH will be responsible for the governance and monitoring of STMO, to ensure continued maintenance of the Council's assets (as the Council will continue to

own these properties) and provision of high quality services to tenants, as cited in the Management Agreement between the Council and STH dated 31st March 2020:

- *20.5 - STH will assume those responsibilities of the Council which are set out in any management agreement made between the Council and a Tenant Management Organisation.*
- *20.8 - For the avoidance of doubt, it is acknowledged that STH has assumed the responsibilities of the Council in relation to the STMO, which are set out in the Modular Management Agreement dated 5 July 1996 relating to the STMO.*

- 5.2 The governance, monitoring and contractual arrangements will be specified in a new modular management agreement, approved by the Secretary of State under regulation 16 (2) of the Right to Manage Regulations, which is currently being developed.
- 5.3 STMO will carry out its duties in accordance with the standards and procedures set out in this agreement, which include the following:

- Financial and legal requirements.
- Management functions and performance standards for major works programmes and responsive and planned repairs.
- Functions and performance standards for estate and leaseholder services.
- Rent collection, arrears prevention and control procedures.
- Financial reporting, management and accounting standards.
- Tenancy management.
- Employment of contractors, obligations and accreditation requirements.
- Performance/failure to perform, monitoring and reviewing of standards.
- Management of the relationship between STMO and STH.

- 5.4 Regular governance and monitoring meetings will be held between STMO and STH to gauge performance and ensure compliance. Audited annual accounts will be provided at the end of each financial year. This information will be reported to the Council as part of its governance arrangements with STH.

6.0 NEXT STEPS

- 6.1 A Proposal Notice will be issued to all tenants (see 4.12 above).
- 6.2 A formal, secret ballot will take place over a fourteen day period based upon the 50% + 1 majority rule. At least 50% of all votes cast + 1 must be in favour of the self-financing proposal (minimum turnout 15%). If the majority vote against the self-financing proposal the application will be rejected. Completed ballot papers will be returned in a previously supplied self-addressed stamped envelope to Jackie Summerscales at the Town Hall on behalf of the Council. Alternatively, completed/sealed ballot papers may be placed in a sealed ballot box (located in the Springs Office) which will be collected by Jackie Summerscales when the ballot closes.
- 6.2.2 A continuation ballot will take place every 5 years as it does at present, to ensure the tenants are still satisfied with the existing arrangements. The last ballot took place in August 2019, this achieved a 50% turnout rate with 50% of tenants voting in favour of STMO continuing to manage their estate.

- 6.3 The Council and STH will determine service levels/charging arrangements for the services they currently provide, as STMO will have to pick up these costs when the agreement comes into force. This will also allow STMO to determine which services they want to procure from the Council and STH in the future.
- 6.4 The modular management agreement will be progressed to take account of the self-financing arrangements.

7.0 RECOMMENDATIONS

- 7.1 See options and recommended option.
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