



Report on the proposed Section 85 Agreement for the provision of social housing via a Public Private Partnership – Bundles 4 and 5 of the National Social Housing PPP Programme.

Section 1: Overview of the Programme

In November 2014, the Minister for the Environment, Community and Local Government (now the Minister for Housing, Local Government and Heritage) launched the Social Housing Strategy 2020. The Strategy provided for a number of measures to boost the supply of social housing including the use of off-balance sheet mechanisms, one of which is a large scale Public Private Partnership (PPP) Programme.

In September 2021 the Department of Housing, Local Government and Heritage (DHLGH) launched 'Housing for All', a new housing plan for Ireland to 2030. Under the Plan, Housing Policy 'Objective 4: Increase Social Housing Delivery', there is a commitment to increase the use of PPP's as a social housing delivery mechanism, building on the successful model of PPP housing delivery to date.

The Social Housing PPP Programme is a partnership between the DHLGH, participating local authorities, the National Development Finance Agency (NDFA) and a specially formed Project Company. The Programme is being rolled out in five individual bundles.

Bundle 1

Bundle 1 of the programme, which delivered 534 social homes, was led by Dublin City Council (DCC) on behalf of five participating local authorities, which included, Kildare, Louth, South Dublin and Wicklow County Councils. Bundle 1 of the programme delivered 220 social housing units in the City, at two sites, located at Scribblestown Rise and Churchwell Gardens.

Bundle 2

Bundle 2 of the programme was led by Cork County Council and delivered 465 social homes across seven local authorities; Cork, Roscommon, Waterford, Galway, Clare and Kildare County Councils and Waterford City Council

Bundle 3

Bundle 3 of the programme has six sites across four local authorities. Dublin City Council is the lead local authority on behalf of Kildare, Sligo and Wicklow County Councils. All sites in this bundle have secured planning approval to deliver 586 social homes. The programme is currently in the procurement pre-qualification stage.

Bundle 4

In June 2022 the Minister for Housing, Local Government & Heritage, Darragh O'Brien T.D., announced the approval of 18 sites across the greater Dublin region for PPP Bundles 4 & 5. Bundle 4 has eight sites that are solely in Dublin City Council's (DCC) administrative area with scope to deliver c.780 new social homes, subject to detailed design.

Site	Local Authority
Collins Avenue (Bring Centre)	Dublin City Council
Forbes Lane (Depot)	Dublin City Council
Basin View Flats (Housing Regeneration)	Dublin City Council
Ballymun	Dublin City Council
Croke Villas	Dublin City Council
Church of the Annunciation, Finglas	Dublin City Council
Stanley Street (Depot)	Dublin City Council
Wellmount Road/Cardiffsbridge Road Finglas	Dublin City Council

Bundle 5

Bundle 5 has ten sites across six local authorities. Dublin City Council has been appointed the lead local authority by DHLGH on behalf of Kildare, South Dublin, Dun Laoghaire, Louth and Wicklow County Councils. The 10 sites are expected to deliver c. 795 social homes and 307 affordable homes, of which 130 are in the City area, subject to detailed design.

Site	Local Authority
Barry Road, Finglas	Dublin City Council
Cherry Orchard Avenue	Dublin City Council
Balally, D16	Dun Laoghaire- Rathdown County Council
Lambs Cross, Sandyford	Dun Laoghaire- Rathdown County Council
Oldtown Mill, Celbridge	Kildare County Council
Coolaghknock Glebe, Kildare Town	Kildare County Council
Ballymakenny East	Louth County Council
Clonburriss	South Dublin County Council
Burnaby, Greystones	Wicklow County Council
Rehills, Bray	Wicklow County Council

Section 2: Method of Delivery

The Social Housing PPP Programme is being delivered through the 'availability'-based PPP model. Under this type of contract, the PPP project company (PPP Co), as the private partner, designs, builds, finances, maintains and operates (DBFMO) social housing developments for a period of 25 years in return for a monthly payment (unitary charge) from the State. Payment is made by the State only once construction of the buildings is complete and the homes are ready for tenancing.

This funding mechanism means that PPP's typically require no upfront capital from the State, so the private partner takes on the full construction and funding risks. PPP's also provide cost certainty for the State, with unitary charge commitments known before the contract is executed. In addition, projects are subject to comprehensive value for money testing, in accordance with guidance from the Department of Public Expenditure and Reform (DPER).

Land provided by the local authority is made available by way of a licence, but remains in State ownership throughout. In addition, handback provisions are a key feature of PPPs, with the private partner required to hand back the assets to the State at the end of the 25 year operating period, in a specified condition with a pre-defined residual life. This ensures the assets are handed back in good quality for future use.

Section 3: Planning

Each participating local authority will be responsible for obtaining the necessary planning approval in respect of the proposed PPP social housing development in its administrative area and will undertake the necessary public consultation procedure in respect of the proposed development, as required under the Planning and Development Acts and Regulations.

Section 4: Procurement

The Project Company will be selected via an advertised tender competition, conducted by the NDFA in accordance with EU and national procurement regulations. Competitions are typically two-stage, with qualified parties invited to tender following a competitive, pre-qualification stage.

The objective of the tender stage is to identify the most advantageous tender based on pre-defined award criteria, usually a combination of price and qualitative criteria. The qualitative criteria generally includes the following: design, quality and quality of services based on the specific characteristics of the project, which will have been defined prior to tenders being submitted. Following assessment, the tenderer that submits the most advantageous tender is then appointed as the successful Project Company, subject to the tender meeting a number of '*value for money*' tests.

PPP projects are not just about building infrastructure, but also about putting together comprehensive, legally-enforceable arrangements for ensuring the proper management and maintenance of the infrastructure over the contract period.

It is also important to note that PPP projects are subject to a number of '*Value for Money*' tests before the contract is awarded. In the case of this project the key test compares the calculated costs of undertaking the project through the traditional model of delivering social housing against the successful tender in the PPP competition. If the PPP tender cost is less than the cost of undertaking the project through traditional means, then it is considered that the project offers '*Value for Money*' and the contract may be awarded.

Section 5: Overview of Functions/Responsibilities

It is proposed that the programme for Bundles 4 and 5 will be delivered under a single PPP contract (Project Agreement), with a lead local authority acting as the contracting authority. Dublin City Council (DCC) has been appointed as the lead local authority by DHLGH and will therefore be the contracting party that will enter into the Project Agreement with the Project Company, in respect of the delivery and management of social housing under Bundles 4 & 5.

As set out in Section 2 above, each participating local authority will be responsible for obtaining the necessary planning approvals. In addition, each local authority will retain the following

functions in respect of the PPP social housing development in their respective administrative areas:

- *Responsibility for the calculation of tenant rents, in accordance with each participating local authority's differential rent scheme*
- *100% nomination rights for the PPP social housing homes.*
- *The role of landlord under the respective local authorities' tenancy agreement.*

The Project Company occupies the land on foot of a licence granted by the contracting party for the specific purposes set out in the Project Agreement. It is noted, that at no stage does ownership of the land or houses transfer to the Project Company. The land always remains in the ownership of the local authority in whose administrative area the development is constructed.

The local authority is the landlord for the purposes of the tenancy agreements with the tenants and it is proposed that the Project Company will act as the agent on behalf of the local authority in the administration of the tenancy agreements.

Section 6: Recommendation

The provisions of Section 85 of the Local Government Act 2001 allow for a Local Authority to perform functions on behalf of another local authority.

I therefore recommend that in order to enable Dublin City Council to act as the lead local authority in the Social Housing Bundles 4 and 5 PPP Programme, and to be the contracting authority, the following motion be adopted by Dublin City Council:

'Pursuant to Section 85 of the Local Government Act 2001, as amended, Dublin City Council hereby agrees to enter into an Agreement with Dun Laoghaire-Rathdown County Council, Kildare County Council, Louth County Council, South Dublin County Council and Wicklow County Council, whereby, Dublin City Council will carry out all of the functions of these local authorities in respect of the Social Housing PPP (Bundles 4 and 5) Programme with the following exceptions:

- *the nomination of tenants to be housed in the social housing development in the relevant local authority's functional area,*
- *the calculation of the tenants' differential rent,*
- *the role of landlord under the tenancy agreements and*
- *the obtaining of the necessary planning approvals and the undertaking of public consultation procedures in respect of the development, as required under the Planning and Development Acts and Regulations.*

It is hereby resolved under Section 85 of the Local Government Act 2001, as amended, to enter into Agreements with the local authorities listed above for the provision of the services as outlined above.'

Owen P. Keegan
Chief Executive

20th December 2023