

CABINET

13 APRIL 2011

INSTALLING SOLAR PHOTO VOLTAIC PANELS ONTO COUNCIL OWNED
HOMES AND CORPORATE BUILDINGS

REPORT OF HEAD OF LANDLORD SERVICES

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RECENT REFERENCES:

[CAB2068](#) - Installing Solar Photo Voltaic Panels Onto Council Owned Homes – 13 October 2010.

[CAB2096](#) - Installing Solar Photo Voltaic Panels Onto Council Owned Homes and Corporate Buildings – 8 December 2010

EXECUTIVE SUMMARY:

In December 2010, Cabinet approved a proposal to commence an OJEU procurement process to secure a partner organisation to provide a Solar PV solution to Council owned homes and corporate buildings.

Whilst the Council has met with a number of potential providers, it is clear there is not a mature market in social housing PV partnerships with private sector organisations. Recent pilots have highlighted that there are a significant number of legal and technical issues to overcome with such an approach.

Further discussions and research suggests that an approach whereby the roofs in question are leased to a service provider, in return for a variable roof rental, could be used (rather than the Council retaining the roof and engaging a provider to install the panels under a licence arrangement). It is considered that such a contract would be classed as a land transaction, which would therefore not be subject to OJEU procurement rules. The Council will still need to demonstrate that any agreement achieves value for money in any event.

RECOMMENDATIONS:

- 1 That the Head of Landlord Services, in conjunction with the Head of Estates and Portfolio Holders for Communities and Transformation and Resources, be authorised to negotiate lease arrangements with the provider that is best able to demonstrate value for money to the Council and the ability to support the Council through the legal and technical issues that need to be resolved to allow a solar PV solution to progress.
- 2 That a further report be made to Cabinet recommending final lease arrangements.

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DETAIL:

1 Introduction

- 1.1 In December 2010, Cabinet received a report about the opportunities arising in respect of renewable energy and the Feed-in Tariff (FIT) associated with renewable electricity generation. The report advised members that the Government, was providing a financial incentive, (i.e. an index-linked payment guaranteed for a 25-year period - the FIT), to individuals and organisations that installed PV Panels and generated electricity. Current (and relatively generous) tariff levels are only guaranteed if panels are installed and operational by April 2012, when the scheme will be reviewed.
- 1.2 The benefits to the Council and to tenants, along with the potential risks and general questions were all covered in the previous paper (CAB2096 dated 8 December 2010).
- 1.3 Since Cabinet approved the proposal to undertake a formal OJEU procurement process to seek a partner to work with it to provide PV panels on council-owned homes, further work has been undertaken on the best way to procure a partner.
- 1.4 There are a number of relatively new organisations being set up to take advantage of the FIT initiative and the Council has been approached by a number of these offering to provide PV Panels to Council dwellings. It will be necessary to select an appropriate partner, taking into account the financial return as well as the resources which the proposed partner can put into the project, but it is considered that a formal OJEU procurement process is not required, and would not be most suited to meeting the Council's objectives.

2 Progress Update

- 2.1 Since December, Council officers have continued discussions with potential providers. Further work has also been completed to review the wide range of potential legal and technical issues that will need to be resolved.
- 2.2 Site surveys of all Council properties have also been completed. Whilst these have confirmed that there is potentially 2,100 properties that could be suitable for Solar PV panels due to their orientation, the potential outputs that could be achieved is lower than suggested by potential providers in previous estimates, due to the extent of shading and limited suitable roof space. It is also estimated that with the number of properties that fall within a conservation area, those where roofs may need repair/renewal and those where tenants

may refuse access, the final number where panels can be installed before April 2012 is estimated to be between 1,000 and 1,500.

- 2.3 What has become clear in the last three months is that whilst many councils are reviewing options and some have reached agreements, no model has yet been developed that demonstrates the ideal way forward and any approach adopted by the Council will require piloting and a significant amount of learning as the project is progressed.
- 2.4 The Council has held detailed discussions with a number of potential providers offering a range of models and options. Detailed proposals have been received from three potential providers, all proposing to offer the Council a “roof rental” in return for a lease for space above roofs of relevant Council properties. All three providers offer very similar potential roof rents and are working with social landlords across the country, although, as with all other providers, they have a limited track record to demonstrate they have resolved all the potential legal issues in relation to this model. All three providers effectively offer a percentage of any FIT generated. However, all offer different proposals to support the Council through the project and officers are currently in the process of evaluating the offers. Because of this, it is recommended that the Council negotiate an agreement with a single provider based on who can best demonstrate they have the capacity to support the Council through the process.

3 Procurement and Legal Issues

- 3.1 Legal advice on the procurement route is set out in Exempt Appendix 1 to this report.
- 3.2 Whilst clearly there is a need to ensure the Council secures value for money with any such agreement, Officers consider that because this is a fledgling area, the offers being made by companies are very different and the robustness of some of the companies in this field is untested. It is challenging for the Council (without the benefit of testing a mature market) to balance the different variables and determine a partner in the usual way.
- 3.3 One of the key criteria the Council will be seeking reassurance on when selecting its partner is the robustness and financial standing of the organisation. That said, this is such a developing area, no organisation has a well developed proven track record in solar PV. The fact that markets are prepared to fund proposals gives a degree of assurance. Also, if organisations went into administration, the financial model being used would remain attractive to other providers. The organisations currently under consideration all seek to ensure the model remains profitable by limiting installations to a minimum output of 1.8kw peak. Whilst this will limit the number of properties suitable for PV installations, it will ensure that any investment is well targeted and more assured of a return.
- 3.4 In addition to the above, it may also be necessary for the Council to make financial provision to cover the potential cost of removing panels after 25 years or sooner if for any reason the whole programme is unsuccessful.

- 3.5 Agreeing such lease arrangements arguably fall outside of the general consents available to the Council. Other councils adopting this approach have sought special consents from the Department for Communities and Local Government. The Council intend to seek special consent on a property by property basis once specific properties have been finally agreed. This has been taken into account when developing the proposed timetable set out in paragraph 4 below.

4 Proposed Timetable

- 4.1 Timing is an important factor in this initiative as the maximum FIT is currently available until the end of March 2012. It is to the Council's advantage and that of its agreed partner to have as many homes as possible fitted with PV Panels and commissioned before that date.
- 4.2 Should the Council approve the recommendations contained in this report the draft timetable is:

April – May 2011	Council undertakes detailed negotiations and appoints an Approved Provider
June onwards	Approved Provider undertakes (at risk to begin with) roof suitability on site surveys
July	Design Surveys
July	Begin awareness raising and information sharing with tenants
August – Sept	Complete legal documentation
Sept – Oct	Mobilisation period
Nov	Start on site
Nov/Dec/Jan/Feb	Providers have indicated that they have capacity to install PV Panels on up to 2,000 homes in a four month period

OTHER CONSIDERATIONS:

8 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS (RELEVANCE TO):

- 8.1 This proposal will make a positive contribution towards achieving the High Quality Environment outcomes included within the Sustainable Community Strategy.
- 8.2 It will also help to address Fuel Poverty issues in the two main priority neighbourhoods

9 RESOURCE IMPLICATIONS:

- 9.1 Resources available to the Council through the “roof rental” approach are estimated at between £53,000 and £144,000 income per annum (depending on the number of properties affected), This income should make it possible for the Council to develop positive proposals for addressing fuel poverty and developing energy efficiency schemes to the benefit of residents across the district, not least those not able to benefit directly from the solar PV scheme. The Council may however need to make provision for potential costs after 25 years, including the cost of removing/replacing panels.
- 9.2 As the approach to be adopted is likely to involve a lease arrangement, the accounting treatment of this arrangement and for the receipts and potential liabilities will need to be determined in detail before any programme for spending can be finalised.
- 9.3 As confirmed in the previous report, it is proposed that the procurement process and tenant/resident consultation be co-ordinated by existing staff. Whilst this will no doubt have some impact on capacity to deliver other projects, the opportunity is considered too important to miss. At this stage, no additional budget provision to support this project is being requested. Some additional staffing provision for the project will be needed if the consultation process is to be effective. It is proposed that staff with good community consultation experience and links be used to support this work through the Council’s One Team approach, subject to the approval of the Corporate Management Team.

10 RISK MANAGEMENT ISSUES

- 10.1 Recent pilot “roof rental” approaches have highlighted a number of legal and technical issues that the Council is currently considering. The proposal to negotiate a “lease” arrangement as set out in this paper with a provider that can support the Council is considered the best way forward to ensure that all such risks are migrated.

11 BACKGROUND PAPERS

Background papers held in the Landlord Services, and Environment Teams (other than papers which are exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended)).

12 APPENDICES:

- 12.1 Exempt Appendix 1 – Legal Advice