

<b>Subject:</b>	<b>Purchase of Properties with Restrictive Covenant</b>		
<b>Date of Meeting:</b>	<b>29 March 2018</b> 14 March 2018 Housing & New Homes Committee		
<b>Report of:</b>	<b>Executive Director Neighbourhoods, Communities and Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Emma Kumar</b>	<b>Tel:</b> 01273 293297
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<b>Ward(s) affected:</b>	<b>Queens Park</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 At Housing & New Homes Committee on 15 March 2017 it was agreed to explore the possibility of purchasing and refurbishing two properties where a restrictive covenant was in place. The covenant provided an opportunity for the council as it lowered the purchase value of the properties.
- 1.2 Further it was agreed that if a viable scheme (for the purchase and refurbishment of the properties) was identified then a further report would be brought to Housing & New Homes Committee for consideration before seeking budget approval at Policy, Resources & Growth Committee.
- 1.3 Since March 2017 viability modelling of the proposal has been undertaken and negotiations have been ongoing with a final purchase price now being agreed with Orbit Housing Association (the Registered Provider (RP)) as vendor.

**2. RECOMMENDATIONS**

That Housing & New Homes Committee recommend to Policy, Resources & Growth Committee that:

- 2.1 The council purchase and refurbish the two properties at in Queens Park ward, Brighton to provide 15 units of accommodation for future use by the council as temporary accommodation.
- 2.2 A budget of £2.040m for the purchase and refurbishment of these two properties is approved, which includes a purchase price of £1.200m.

**3. CONTEXT / BACKGROUND INFORMATION**

- 3.1 The properties comprising 15 units of accommodation are in a cul-de-sac of terraced properties situated in the Queens Park area of the city. The properties are formed of

- Property 1: A large former villa currently converted as 12 flats (9 x 1 bed and 3 x studio) and a ground floor office room. It has a large garden area that wraps around both buildings at the rear and runs along behind the other properties in the row. The 'front' area of this garden is quite large, contained by a possibly historic flint wall.
  - Property 2: This is a smaller building, in poor condition internally and currently forming three self contained flats (1 x 1 bed and 2 x studios).
- 3.2 These properties were sold to local RP partner Orbit in 1999 on the basis that the accommodation within the buildings should be used as 15 flats let on affordable rents. This is the restrictive covenant referred to in this report. Orbit refurbished the buildings after purchase and they were used for supported housing accommodation until 2015.
- 3.3 At that time they decided that a further upgrade of the buildings was needed but was not financially viable and approached the council to seek removal of the restrictive covenant to enable it to sell the buildings on the open market in order to maximise the sale price based on an unfettered open market value.
- 3.4 Orbit has accepted that the properties could only be sold on this basis if the council is prepared to release the covenant, and that it would be reasonable for the council to seek payment in compensation for so doing. Orbit has therefore agreed to the alternative option put forward by the council, namely that the council itself purchases the properties.

### **Valuation and negotiation of price**

- 3.5 A valuation by an independent valuer was commissioned jointly by BHCC and Orbit dated 08 July 2016 which included valuations based on the social housing covenant remaining and the value if sold at open market value. This highlighted the opportunity presented by the covenant being in place and formed the basis of the original committee report. Following the committee decision the valuer was appointed to negotiate on the council's behalf. The valuation undertaken in July 2016 gave an open market value of £2.330m and a value with the social housing covenant of £0.418m.
- 3.6 Orbit's position is that it would not consider a valuation based on social housing value, only one based upon unfettered market value. This reflected the fact that, although the council's current and foreseeable intention is to retain the buildings for affordable rent purposes, there is a possibility that at some point in the future, the council could seek to sell the buildings on the open market without use restrictions. Orbit also took legal advice which suggested that an application could be made to the Courts to have the user covenant modified or released in its entirety. These matters informed the negotiation.
- 3.7 BHCC surveyors have provided an estimate of works costs needed to bring the properties back into use based on refurbishing the existing 15 units (10 x one bed and 5 x studio). This estimate of works cost was later increased to reflect additional works for fireproofing and a recent uplift of 4% was also proposed to reflect build cost increases. Any potential for additional units will be explored after purchase.

- 3.8 The proposed scheme was not viable using social rent levels so modelling based on affordable rent levels and a revised affordable rent valuation of £0.978m was applied and an initial offer of £0.950m was made which was rejected by Orbit.
- 3.9 Orbit has stated their sale price based on both an unfettered market basis and a lower price including a requirement that they would then receive a share of the increase in a future sales value. Depending on future market movement and the basis of sale, this could be a significant sum of money.
- 3.10 The valuer considers that the price of £1.200m to sell the freehold unfettered is an acceptable price as the council will be acquiring an unfettered freehold and have complete freedom as to how it wishes to use the properties.
- 3.11 If purchased the accommodation would be used for temporary accommodation held within the HRA.  
This purchase provides an opportunity to accelerate delivery of council provided temporary accommodation through the development and acquisition of suitable settled high quality temporary accommodation in the city to:
- Enable the council to meet its statutory homelessness obligations, meeting the needs of vulnerable households to whom we owe a housing duty;
  - Support Housing General Fund budget pressures and the council's temporary accommodation reduction plan;
  - Reduce the use of / replace more expensive emergency and / or other temporary accommodation.
- 3.12 Whilst the properties are proposed to be used for temporary accommodation continued use of the building as Supported Housing was discussed. Supported housing needs are now reviewed and assessed through the council's Strategic Accommodation Board before commissioning decisions are made.

#### 4. ANALYSIS & CONSIDERATION OF ANY OPTIONS

	Option	Benefits	Risks
Option 1 (preferred option)	Purchase the two properties providing 15 units of accommodation	Increase supply of council-owned affordable housing  Pressing housing needs are met  Takes advantage of the opportunity presented by the covenant providing a good value purchase that meets a housing need	The projected building costs increase
Option 2	The council agrees to remove the covenant and receive compensation	Compensation payable to the council for releasing the covenant  Monies to be used for the provision of alternative affordable housing elsewhere in the city	Not taking advantage of opportunities to improve the supply of affordable housing  Not meeting housing needs identified in the city  Loss of affordable housing provision in the city

Option 3	Seek an alternative registered provider to purchase the properties with council nominations	<p>No capital outlay for the council</p> <p>Keeps accommodation as affordable housing</p> <p>Council nominations to the accommodation therefore meeting housing need</p>	<p>Would require the landowner, Orbit to agree to this option.</p> <p>Not taking advantage of opportunities to provide council owned temporary accommodation</p> <p>No interest due to risks around borrowing to provide homes for rent, small scale of the scheme and recent experience of RPs disposing of miscellaneous properties as part of their asset reviews</p>
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4.1 The following table provides details of the estimated cost and funding requirement for the purchase of 15 units as well as the surplus generated over a 60 year period. The 60 year viability model was used for this proposal; with standard assumptions being made about management, maintenance, repairs and voids costs to ensure that future associated costs associated to the property are accounted for.

	<b>Tilbury Place For HRA - owned TA use</b>
<b>No. of units</b>	<b>15</b>
<b>Rent option</b>	<b>LHA</b>
	<b>£'m</b>
Total cost (Purchase and works)	2.040
<b>Funded by:</b>	
HRA Borrowing	(2.040)
<b>Cost per unit</b>	<b>0.136</b>
NPV of 60 year cash flows [Subsidy /(Surplus)]	(0.118)

## 5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 Estate Regeneration Members Board considered this report on 26 February 2018.

5.2 Should the purchase proceed we will engage with local residents with regard to major works or any planning permissions needed.

## 6. CONCLUSION

6.1 The covenant included in this transfer document offers an opportunity to provide

much needed affordable housing in the city. The purchase by the council of additional affordable homes will help meet the council's strategic objectives to increase housing supply as set out in the council's Housing Strategy.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

The financial viability modelling sets out to show whether a given scheme can pay for itself by using the new rental stream only (net of service charges and management and maintenance costs) over 60 years. If the rental stream is insufficient to meet the costs, then a subsidy is required by the HRA. For this proposal the modelling shows a surplus.

Refurbishment costs within the model are based on the estimates provided by BHCC surveyors from late 2016. An increase of 4% for build cost inflation has since been added to the costs, to account for the potential increase in costs over that period of time. .

Rental income of £135 per week has been used in the model, this being the amount that can be claimed in Housing Benefit for a temporary accommodation unit.

There is cross-party support to develop council owned temporary accommodation. The temporary accommodation budget is a critical budget and the council developing its own accommodation could reduce pressure on this budget. It is calculated that the delivery of these 15 units could reduce costs by up to £2,250 a week (up to £117,000 a year).

Right to Buy receipts cannot be utilised for the purchase of these buildings due to restrictions being placed on the use of receipts. Pooling guidance stipulates that where the units are already being used as social / affordable housing receipts cannot be used to fund any of the purchase cost or refurbishment works. It is proposed that HRA Borrowing will be used to fund the purchase and works cost for this proposal. The viability modelling indicates that this loan can be financed by the rental income stream.

Option 2 in section 4 of the main report is for the release of the covenant and payment of compensation to the council. This was assessed as providing a one off payment of £1.000m. If this option was to be pursued this receipt could be used to contribute to funding additional housing across the city. However considering the rising cost of housing across the city it would still require significant investment from the HRA to purchase 15 properties.

*Finance Officer Consulted: Monica Brooks*

*Date: 02/03/18*

### Legal Implications:

With reference to the recommendation at 2.1, section 120 of the Local Government Act 1972 [the 'Act'] enables a local authority to acquire by agreement any land for the purposes of its functions. Once acquired the

intention is to use the property for temporary accommodation which satisfies the requirement of the Act.

*Lawyer Consulted: Name Joanne Dougnaglo*

*Date: 21/02/18*

Equalities Implications:

A purchase would support delivery of the city's Housing Strategy and an increase in housing supply will extend opportunities to accommodate households on the Housing Register who are on housing need including vulnerable groups.

Sustainability Implications:

Improvement and full occupancy of these homes would increase housing supply and improve the condition of the city's housing stock and the local neighbourhood thereby improving sustainability. Purchased properties will be required to meet the Brighton & Hove Standard and seek to be energy efficient, minimise carbon emissions and reduce water usage.

Any Other Significant Implications:

Public Health

Poor housing conditions impact negatively on health. Improvements to housing quality and neighbourhoods will have a positive health impact on residents.

Crime & Disorder Implications:

Improvement and full occupancy of these homes would reduce their vulnerability to anti-social behaviour.

Risk and Opportunity Management Implications:

This purchase will increase affordable housing within the city and the council's overall housing stock.

Corporate / Citywide Implications:

Retaining the properties as affordable housing is in line with stated aims in the Housing Strategy.

## **SUPPORTING DOCUMENTATION**

### **Appendices**

None

### **Documents in the members' room**

None

### **Background documents**

None