

Brighton & Hove City Council

Strategy, Finance & City Regeneration Committee

Agenda Item 70

Subject: 71-73 Grand Parade, Brighton, Lease End Hand-back

Date of meeting: 5th October 2023

Report of: Executive Director Housing, Neighbourhoods & Communities

Contact Officer: Name: Martin Reid
Email: martin.reid@brighton-hove.gov.co.uk
Name: Geof Gage
Email: geof.gage@brighton-hove.gov.uk

Ward(s) affected: Queens Park

For general release

1. Purpose of the report and policy context

- 1.1 71—73 Grand Parade, Brighton was leased to South London Family Housing Association by Brighton & Hove City Council on 9th December 1997. The property consists of 19 dwellings, currently occupied by 16 tenants of Southern Housing Group (SHG), who now hold the property following a series of registered provider mergers.
- 1.2 The 25-year full repairing lease, formerly held by Optivo, another registered provider who recently merged with SHG, came to an end on 8th December 2022. There is no obligation for the registered provider holding the lease to give the Council vacant possession at the end of the term. The Council held at least 75% nomination rights to individual homes in this property.
- 1.3 In meetings with Optivo leading up to the end of the lease the Council expressed serious concerns around the condition of the property and the expectation that it should be in repair when handed back. The Council refused to accept hand back of the property in the condition it was in at that time.
- 1.4 Following the concerns raised by the Council the Grand Parade hand back was delayed. Optivo then SHG, have held over on the terms of the existing lease while we have undertaken a period of review and negotiation. Some, though not extensive, works to the property have also been undertaken by the registered provider.
- 1.5 SHG now wish to terminate the lease and hand back the property in its entirety to the Council with tenants in occupancy, they have indicated they wish to do so on 15th January 2024. SHG also wish to conclude negotiation of a dilapidation settlement covering costs of works required at lease end as a separate matter. The purpose of the report is to delegate authority to the Executive Director, Housing, Neighbourhoods & Communities to negotiate the dilapidations settlement and to carry out works associated with the hand back process such as tenancy transfers.

2. Recommendations

- 2.1 That Committee delegates authority to the Executive Director Housing, Neighbourhoods and Communities to negotiate a dilapidations settlement with Southern Housing Group in relation to the lease end hand back of 71-73 Grand Parade and to carry out works associated with the hand back process such as tenancy transfers.
- 2.2 That Committee agrees appropriation of 71-73 Grand Parade on its return to the Council from General Fund to the Housing Revenue Account at best consideration to be confirmed by an external valuer.
- 2.3 The Committee approves a capital budget up to the value outlined in the part 2 paper to be included in the HRA capital programme for 2023/24.

3. Context and background information

Grand Parade tenants

- 3.1 The property at 71-73 Grand Parade was leased to South London Family Housing Association (now SHG) on a 25-year full repairing lease. The lease has been held by registered providers since then, most recently by Southern Housing Group. The full repairing lease means that SHG are responsible for any costs related to dilapidations at the end of the lease term.
- 3.2 The property consists of 19 flats made up of 18 one bedroom and one two-bedroom dwelling. The property currently has 16 occupied flats and three empty homes. From the information shared to date the current occupiers mainly hold assured tenancies with some assured-shorthold tenants.
- 3.3 The Council retained nomination rights to at least 75% of the individual homes at 71-73 Grand Parade. From the initial tenancy information received most occupiers appear to be council nominees with others occupying following mutual exchange or transfer into the property.
- 3.4 The lease anticipated that the Council could inherit the registered provider tenants at the end of the lease term. There is no obligation for the registered provider to give the Council vacant possession of the dwellings.
- 3.5 Council Legal advice is that SHG are legally able to hand back the property at this time. Therefore, in the period leading up to the proposed hand back date of 15th January 2024 the Housing Management Service will work with SHG to manage the transfer of these homes into the council housing stock, including agreeing communications with residents. When the homes return to the Council, the current occupiers will become secure tenants of BHCC. SHG have confirmed that they are no longer letting to any empty homes at 71-73 Grand Parade ahead of hand back.

Grand Parade property condition

- 3.6 71-73 Grand Parade consists of 19 dwellings in a converted Edwardian terrace. In meetings with Optivo (now SHG) leading up to the lease end date the Council expressed serious concerns over the condition of the property, in particular given the registered provider held a full repairing lease.
- 3.7 Concerns included structural elements of the building related to areas such as bay windows and, in particular, with regard to balconies at the front of the property. Also, the overall condition of the roof, fire safety requirements and the general external and internal condition of the property being in a poor standard. Concerns raised by the Council over the balcony structure led to Optivo installing a crash deck scaffold. Following council concerns over these and other matters we can confirm that some internal improvement works have been undertaken at the property, including fire safety and Decent Homes (kitchen) works which SHG advise have been completed. However, there have been no extensive repair works and our latest visit has identified a serious roof leak which has resulted in a further decant of a flat and is awaiting repair.
- 3.8 As part of our on-going review and negotiation council appointed surveyors have carried out visual inspections of the building to assess potential works costs. However, no intrusive investigation has yet been undertaken. Therefore, the full extent of any works required is not currently known.
- 3.9 SHG have advised that they are not in a position to carry out the works required at Grand Parade at lease end themselves. Council Legal advice is that we cannot enforce that the registered provider undertake this work under the terms of the lease. SHG do however wish to negotiate a dilapidations settlement with the Council to cover works costs.
- 3.10 The Council and SHG currently have differing views as to the appropriate sum, to reflect the works required at Grand Parade, and at which to settle any dilapidations claim. This report therefore recommends that authority be delegated to the Executive Director Housing, Neighbourhoods and Communities to negotiate a dilapidations settlement with Southern Housing Group.
- 3.11 Should cost recovery not be achieved the Council has no budget identified to meet any resultant shortfall in our Housing Revenue Account. Any outcome that would incur a cost to the HRA would require budget changes to be agreed.

4. Analysis and consideration of alternative options

- 4.1 As outlined in the report the 25 year lease on this property has come to an end and SHG have held over on the terms of the existing lease while we have undertaken a period of review and negotiation. SHG now wish to return the property to the Council and conclude the negotiation of a dilapidation settlement covering costs of works required at lease end as a separate matter. As outlined in the Legal comments to this report, there is no

provision to enable the Council to require the lease to continue. The report requests delegated authority for the Executive Director Housing, Neighbourhoods and Communities to negotiate a dilapidations settlement with SHG.

5. Community engagement and consultation

- 5.1 The delegation of authority requested of Committee includes to carry out works associated with the hand back process such as tenancy transfers. The occupiers of homes at 71-73 Grand Parade remain tenants of SHG at this time. The Council will work closely with SHG to enable as smooth a tenancy transfer process as possible, including agreement of a tenant communications and hand back plan.

6. Conclusion

- 6.1 This is outlined in the body of the report and report recommendations.

7. Financial implications

- 7.1 Recommendation 2 sets out the need to appropriate the asset from the General Fund upon hand back of the lease. The appropriation is required to be at best consideration and based upon an external valuation being undertaken. The impact of the appropriation is that it will be treated as a capital receipt for the General Fund, however the capital funding guide allows General Fund receipts to fund the HRA capital programme where committee approves. Applying those receipts to the lease hand back will ensure that the cost of appropriation is neutral for the HRA.
- 7.2 The 2023/24 HRA capital programme doesn't currently include a budget provision for the hand back of the lease at 71-73 Grand Parade. As stated in paragraph 3.11 of the main report, there is a risk that following the negotiations, the value of compensation agreed will not cover the cost of the dilapidation works required. Should this situation occur the HRA will be required to fund this gap by using HRA borrowing.
- 7.3 A capital budget is required to be set up in order for negotiations to progress, the part 2 paper sets out the detailed financial implications associated with the lease hand back.

Name of finance officer consulted: Craig Garoghan Date consulted
21/09/2023.

8. Legal implications

There is no ability for the Council, to prevent the hand back of the property. The lease has expired and there is no provision to enable the Council to require the lease to continue. Generally the position is that dilapidations are negotiated separately and there is no provision for a requirement that the property is handed back in an acceptable position. The statute provides for a court process to assess the level of claim, where agreement cannot be

reached. On hand back under the Housing Acts provisions the current tenants will, in our view, become secure tenants by operation of law.

Name of lawyer consulted: Hannah Bassett Date consulted 21/09/23:

9. Equalities implications

- 9.1 A number of the tenants may well have protected characteristics. This is not known at the moment and will be part of the hand back process. As they will transfer as secure tenants we do not envisage that they will suffer any discrimination, but consideration should be given to reasonable adjustments for those who have a disability. For instance, how the Council communicate.

10. Sustainability implications

- 10.1 There are no direct sustainability implications arising from this report. Any improvements that have or will be made to homes at 71-73 Grand Parade are likely to make them more sustainable and better quality for the tenants in occupancy.

