

Body:	Cabinet
Date:	22 October 2014
Subject:	Housing & Economic Development Partnership (HEDP) Delivery Programme
Report Of:	Ian Fitzpatrick, Senior Head of Community
Ward(s)	All
Purpose	This report sets out proposals to take forward the next phase of HEDP delivery. It includes proposals for the development of beach huts to the east of the pier and the establishment of a new asset holding vehicle.
Decision Type:	Key decision.
Recommendation	Recommendations are set out for each proposal in the report sections 3 and 4 below.
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1.0 Introduction

- 1.1 Future affordable housing investment plans were presented to Cabinet in July 2014 with a recommendation to release up to £14.34m of capital programme allocation for new housing if bids for external funding, outstanding at the time, were successful.
- 1.2 The July Cabinet report also provided an up-date on how the HEDP had taken the delivery lead for new affordable housing and brought forward a ward focused neighbourhood improvement project; Driving Devonshire Forward (DDF).
- 1.3 To support future delivery Cabinet also gave delegated authority for preparatory work to be undertaken to set up a Council owned Housing Delivery Company with a report back to Cabinet in the Autumn.
- 1.4 We are pleased to report that the Council has been successful with capital funding bids from both the Local Growth Fund (LGF) and National Affordable Housing Programme(NAHP). The total grant funding secured from NAHP is £1.045m with a further £380k of additional HRA borrowing capacity secured via LGF.

- 1.5 This new grant, combined with grant previously secured and the additional borrowing capacity, means that the Council can proceed to deliver 97 of the planned new homes with a net capital programme allocation of £10.09m. The programme is scheduled to be delivered by March 2017 and will provide 85 new affordable homes, 8 homes for shared ownership and 4 homes for out-right sale.
- 1.6 This report covers delivery plans beyond this now committed first phase for a DDF linked regeneration project to provide new beach huts in the Ward. In the final section the report also provides a recommendation to Cabinet for a new asset holding vehicle as a report back to the preparatory work approved in July.

2.0 HEDP Background

2.1.1 Over the last 18 months HEDP have taken a pro-active role in bringing forward sites, in directly developing new housing and in the regeneration of priority neighbourhoods.

2.1.2 Delivery to date has focused on three areas:

- a) Local Authority New Build: providing new housing on mainly Council owned land. The first phase of the LANB programme is underway to provide 56 new homes by March 2016.
- b) Empty Homes Programme/SHEP: bringing empty properties back into use, including redundant retail units. Phase 1 of this programme will provide 40 affordable homes, and the refurbishment and commercial letting of 3 retail units, by March 2016.
- c) Driving Devonshire Forward (DDF): a ward focused and locally led neighbourhood improvement project. A local steering group has been established to co-ordinate delivery and to prioritise and bring forward initial projects.

These include improvements to the public realm, tourist offer and working with the local business community to improve the Seaside Road retail offer. To support this work an application was made to the Coastal Communities Fund for £1.8m of funding in April 2014.

We are through to stage 2 of the process and are preparing a more detailed submission in line with a mid Oct 14 deadline

2.1.3 Whilst we have been successful to date in securing external funding we are also mindful of the continuing economic climate and the likelihood of reducing public subsidy in the medium term.

2.1.4 The HEDP Project Board has therefore considered how additional new housing could be brought forward based on the assumption that no further external grant would be forthcoming. This will enable to Council to sustain regeneration impact, and continue to directly meet new housing supply targets.

2.1.5 The Project Board noted that subsidy could instead come from a higher proportion of commercial development subject to a full appraisal of

associated risks and business case approval by Cabinet for each proposed development.

2.1.6 Opportunities for commercial development are being considered and will be brought to Cabinet for business case approval as and when they progress to this stage.

2.1.7 In assessing each development we are looking carefully at the risk/reward relationships and prioritising opportunities that offer more than just a financial reward i.e. they may have a regeneration benefit in a key area or enable the Council to meet strategic housing priorities.

3.0 New Beach Hut Provision

3.1 Background

3.1.1 Eastbourne, like many other coastal towns, provides beach huts as part of its visitor offer. Currently there are 87 huts and 69 brick built chalets at six locations. Most are rented out on an annual or season basis, with four used for shorter lets i.e. day or weekly.

3.1.2 There are currently no beach huts east of the pier. However, there are key visitor seafront attractions: Redoubt, Treasure Island, Spray Water Sports Centre, Fort Fun and Princes Park. We can enhance the quality offer and generate a surplus by providing huts to complement these key attractions.

3.2 Huts and locations

3.2.1 The DDF steering group has considered the benefits of providing new beach huts as part of the neighbourhood improvement programme. Plans have been progressed based on 25 huts in total to the east of the pier, 20 will be colourful traditional shaped huts and 5 bespoke designed huts (see Design Competition below). Huts will be sited on the edge of the beach, abutting the promenade.

3.2.2 Like the current huts the new huts will be a daytime time offer only and will be available to rent; annually, seasonally and shorter periods.

3.2.3 Because of the high risk of damage or flooding to the huts if we installed close to the pier, the safest locations are from opposite Langhams Hotel, east toward the Sovereign leisure centre. With Planning, Tourism and Environmental Agency we've identified a key proposed site near the Spray Water Sports centre which can accommodate the huts. Exact and final locations will be determined by: the emerging seafront strategy, planning, environmental agency, consultation, and suitability.

3.2.4 Huts will be delivered in two phases. Phase one will be for 20 traditional huts only. Phase two will include the 5 bespoke designed huts.

3.2.5 A phased approach will enable us to deliver the first huts for Easter 2015. It will also help mitigate risk by market testing future demand and identify key sites as the seafront strategy develops

3.2.6 Consultation with local residents, businesses and interested groups such as the Hospitality Association are an important aspect to this project. Key stages and timescales are shown as appendix 1.

3.3 Design competition and 5 bespoke designed huts

3.3.1 The competition will bring together architects, artists, designers, the local community, including schools, interested groups such as Eastbourne Society, to re-imagine beach hut design. The creative industries are a key driver for successful coastal towns. The competition can harness the resurgence of interest in coastal economies, build on Eastbourne's culture offer, drive creativity forward, and get Eastbourne regional, national and even wider coverage.

3.3.2 The outcome from the competition will be to commission 5 bespoke designed huts which will be sited at key locations. They will in effect be key landmarks attracting visitors toward the tourist attractions, local businesses, hotels and the main commercial spine of Seaside/Seaside Road.

3.3.3 Exact and final locations will be determined by: the emerging seafront strategy, planning, environmental agency, consultation, and suitability. The final locations will determine whether the hut is rented commercially i.e. as a concession or as a traditional hut.

3.3.4 The £100,000 capital investment has been included in the overall financial feasibility. Of this, £40,000 will fund the commission of consultants to manage and deliver the design competition. A clear tender brief will be produced to commission the consultants. Post competition the installation of 5 bespoke huts will be commissioned at a budgeted cost of £60,000.

3.3.5 A similar design competition run by Mablethorpe Town Council and Lincolnshire County Council inspired 240 architects, artists and designers from 15 countries to compete for commissions to build their designs on the stunning Lincolnshire coast. The competition was widely considered to have elicited one of the most exciting responses to any architectural competition this century. One hundred selected models showing the incredible virtuosity of approach went on show and resulted in 10 iconic huts being installed on the coast.

3.4 Financial Business Case

3.4.1 To ensure any future provision of huts is based on a properly substantiated business case a detailed review of the current beach hut offer has been carried out. This has included financial analysis of current occupancy levels, demand and operating costs. Research has also been carried out into the beach hut offer of other seaside locations.

3.4.2 After maintenance and management costs the existing beach huts currently generate an annual surplus of £128,673. All locations give a surplus, however the location and quality of the huts mean some locations generate a larger surplus than others. For example, the huts near Wish Tower are popular and give the greatest surplus; those at East Beach (close to life savers station) give the smallest return.

- 3.4.3 Current rents vary; Holywell chalets are £3k per year and a small hut is £400 per season. The huts at Wish Tower, which generate the largest surplus, are £900 annually. There is currently a waiting list of 80 for huts west of the pier.
- 3.4.4 The proposed new offer for all 25 huts includes an enhanced utilities offer. In addition to the hut, base and decking, we will include; connection to mains cold water supply with a tap in each hut, sink, waste and solar panel powered electric supply. Income for this enhanced offer is £1,500 annually per traditional hut and £5,400 annually per bespoke hut. Attached as Appendix 2 is a table showing capital and management costs and income for the traditional huts and the bespoke huts.
- 3.4.5 Our analysis and financial feasibility includes the provision of £100,000 for the Design Competition and 5 bespoke huts. For a total capital investment of £235,240 we will be able to repay the capital investment cost, meet management/maintenance costs and return a surplus from year 1. Over twenty years this gives a NPV (Net Present Value) of £350,535. Appendix 2 provides a detailed income and expenditure summary.
- 3.4.6 If the provision of utilities proves undeliverable we have assessed a non-utilities option. Allowing for reduced income this remains financially viable in that it produces an NPV of £225,093.

3.5 Staffing

- 3.5.1 Staffing will be drawn from existing resources.

3.6 Appendices

- 3.6.1
- Attached as Appendix 1 are Key stages.
 - Attached as Appendix 2 are traditional and bespoke hut costs and income.

3.7 Beach Hut Recommendations

- 3.7.1 Cabinet is recommended to:

- 1) Approve the invest to save case and agree to include £135,240 in the 2013-2018 capital programme for the purchase of 20 traditional beach huts: installation, associated works and utilities.
- 2) Approve the invest to save case and agree to include a further £100,000 in the 2013-2018 capital programme for a design competition, the purchase of 5 bespoke designed beach huts: installation, associated works and utilities.
- 3) Delegate authority to the Senior Head of Community in consultation with the Cabinet Portfolio Holders for Community and Finance to take all steps and make all decisions necessary to effect the installation of beach huts referred to above subject to; planning approval, consultation, procurement, legal checks and final financial appraisal.

- 4) Delegate authority to the Senior Head of Community in consultation with the Cabinet Portfolio Holders for Community and Finance to approve the Design Competition brief, appointment of outside agency to deliver the competition, installation of 5 bespoke designed huts subject to; planning approval, consultation, procurement, legal checks and final financial appraisal.

4.0 Asset Holding Vehicle

4.1 Background

- 4.1.1 This section provides a report back to Cabinet regarding progress against the previous authority delegated to Senior Head of Community (16th July 2014) to undertake preparatory work to set up a Council owned housing delivery company.
- 4.1.2 The report seeks delegated authority for the Chief Finance Officer in consultation with the Cabinet Portfolio Holder to take all steps necessary set up, on behalf of the Council, a local authority controlled Asset Holding Company in order to achieve the Council's housing objectives in a way which is consistent with its regeneration and economic development aims, as set out in this report.

4.2 Context

- 4.2.1 As previously noted by Cabinet (16th July 2014), to maintain progress on housing and economic development, the Council must consider new ways to meet housing needs in the borough by providing a range of high quality affordable and market housing. In accordance with the mandate given by Cabinet, officers have further explored the option of setting up a local authority housing company in order to achieve the Council's strategic objectives across a range of areas, including housing, economic development and regeneration, so as to assist the Council to fulfil its targets for providing housing in consultation with residents including through 'At home in Eastbourne'.
- 4.2.2 The Council's housing development plans include a series of ongoing projects, forming an initial phase of projects (Phase 1) which are supported by either NAHP grant or LGF HRA debt cap increase. Phase 1 is expected to provide 84 affordable rent properties, plus 4 outright sale and 8 shared ownership. In relation to subsequent projects, central government funding similar to that available to support Phase 1 is not currently in place and is not expected to be similarly available.
- 4.2.3 For the 84 rental properties in Phase 1, Council ownership within the HRA has the following implication:
- the tenants will be charged affordable rent;
 - under current policy, secure tenancies will be offered;
 - tenants will have a right to buy (RTB) the properties, including tenants who have accumulated sufficient duration of tenure in other Council properties. The Council will be protected from RTB property values of less than the cost to build for 10 years.

4.3 Proposed Asset Holding Vehicle

- 4.3.1 In order to assist the Council in developing a greater number of residential properties for the public good in such a way that delivers on its other strategic priorities, the following structured process of assessing the available options against the priorities of the Council has been undertaken, led by the HEDP:
- Preparation of a report into the options available by a consortium of advisors, Arlingclose/Navigant/Mill Group;
 - Engagement with investor organisations to understand market appetite for the potential joint venture options;
 - An options review workshop facilitated by Trowers and Hamlins LLP (Trowers) (external legal advisors);
 - A process to determine and set out the Council's priorities and objectives in relation to housing development;
 - Preparation by Navigant of an addendum to the original Arlingclose report, assessing the available options against the priorities set by the HEDP;
 - Preparation by Trowers of a report concerning the detailed legal issues relating to setting up the proposed asset holding company, including vires and state aid.
- 4.3.2 Having undertaken this process it is considered that setting up a new Asset Holding Company (AHC) is the best means of achieving the Council's regeneration, economic development, employment and training ambitions. This strategy is moreover supported by external advice.
- 4.3.3 The external advice on the available options for the delivery of the Council's housing development ambitions has confirmed the expectation of benefits which the Council should anticipate through the creation of the Council owned housing delivery company, as explored below.
- 4.3.4 As previously highlighted, the Council carries the full risk that all or some of its property investments generate losses rather than surpluses if the housing market dips. The Council owned housing delivery company will be responsible for the repayment of loans made to it by the Council which cover the cost of purchasing the properties. However where income is less than expected the Council will be responsible for the potential shortfall and repayment of the loans.
- 4.3.5 While it is proposed that a Council owned AHC be formed, it is not proposed that at this stage that the AHC will be responsible for development. (As is the case currently, Eastbourne Homes Limited (EHL) will manage the development activity on behalf of the Council.) The company objectives and memorandum of articles will provide scope for the AHC to undertake development activity if this becomes the favoured strategic course at a future point. However, formal approval will be sought from Cabinet should the Council wish to transfer development responsibility to the AHC at a future point.
- 4.3.6 The AHC will provide the benefits the housing delivery company stated above. In summary the company will have the following characteristics:

- company limited by shares;
- wholly owned subsidiary of Eastbourne Borough Council;
- expected to operate at nil profit;
- objectives to hold property assets, act as landlord, sell property assets, offer advice to other public bodies;
- all board directors for the AHC will be Council appointees;
- part of Council group accounts.

4.3.7 The allocation of responsibilities following creation of the AHC will be as follows:

- The Council has ownership of the properties during development and funds development directly;
- EHL supports the development through providing the expert resources and entering into the contracts associated with the works on behalf of the Council;
- AHC will be the owner and landlord of the newly developed properties (and acquired properties if appropriate) and will let these are market or affordable rent and will sell properties, in accordance with the individual project proposals;
- The Council (HRA) will retain ownership of the existing housing stock and the Phase 1 properties.

4.3.8 All decisions relating to undertaking property purchase and development are subject to Cabinet approval and this will only be sought where it is endorsed by a rigorous viability assessment of the proposed projects.

4.3.9 Disposal of properties owned by the Council into the AHC has implications which must be recognised:

- the tenants will be charged either market or affordable rent;
- the Council policy may need to be reviewed to permit the AHC to offer less secure tenancies;
- tenants will not have a right to buy the properties.

4.3.10 The intention to offer less secure tenancies via the new vehicle as well as more secure tenancies via Council-held property will enable the Council to provide a greater number of residential tenancies than would otherwise be possible. Additionally it allows the Council in extreme circumstances to elect to dispose of properties, liquidate funds and wind up the company should it become necessary.

4.3.11 It is proposed that the AHC be incorporated in preparation for subsequently developed projects. The imperative to set up the AHC quickly is created by the following factors:

- the HEDP is considering further market rent opportunities, to progress these projects will require a suitable ownership option;
- confirmation of detailed viability of subsequent projects is dependent upon the Council having a strategy for ownership in place.

4.4 Legal: vires, land transfer consents and state aid

4.4.1 External legal advice has been provided by Trowers regarding the powers under which the Council can establish the AHC and the means by which the Council may be confident that it is acting in a State Aid compliant manner.

- 4.4.2 The external legal advice has confirmed that if the Council seeks to proceed in accordance with the strategy outlined here then the appropriate vehicle for doing so is a company limited by shares.
- 4.4.3 Insofar as the Council's legal powers to set up a wholly owned and controlled asset holding company are concerned, it is noted that while the Council has available to it principal housing powers to do so under Part II of the 1985 Act, it also benefits from a general power of competence available under section 1 of the Localism Act 2011. While the latter power is broad, its use must be appropriate and reasonably justified in public law terms to be lawfully exercised.
- 4.4.4 Insofar as these proposals are concerned, it is noted that the Council's strategy in holding some of its portfolio in a separate vehicle is to seek to differentiate between its general needs stock and the housing that it develops for affordable rent to provide to economically active individuals in order to achieve the wider community and regeneration objectives identified by the HEDP. The latter is important to attract economically active individuals to live in areas of Eastbourne as part of wider initiatives for the economic regeneration. The access routes to the affordable housing provided by the two legal entities will be different and it should be noted that the affordable rent properties available under the new vehicle will be made available to economically active individuals with certain minimum income levels.
- 4.4.5 On all the facts, the Council is confident that establishing the AHC will assist it in achieving wider reaching objectives, such as economic development, creating employment and training opportunities and attracting tourism to specific geographic areas.
- 4.4.6 A complex system of land transfer consents exists in order to protect the land held by public authorities. Detailed consideration of the processes necessary to transfer particular properties from the Council to the new company will be needed in order to determine which to invoke on a case by case basis, depending on whether the land is HRA land, held within the General Fund and/or disposed of at an undervalue. General consents which obviate the need to obtain specific consents from the Secretary of State will be used where available although in certain instances the value of disposal will need to be based upon a valuation prepared and signed by a qualified valuer (a member of RICS).
- 4.4.7 Detailed legal advice has been procured regarding the potential for this proposal to invoke the rules prohibiting state aid. It is noted that funding from the Council to the AHC or a land transfer at an undervalue would constitute a grant of public money which would be favouring the new company over other undertakings. The likely effect of the provision of the resource from the Council is that the AHC's economic activities would receive a benefit and on that basis it is likely that the definition of state aid in Article 107(1) TFEU would be met.
- 4.4.8 It has been noted that the venture may be made compliant with state aid rules if the funding is given in compliance with the Market Economy Investor

Principle (MEIP). This provides that if the Council is acting in a way that a private lender and/or investor would in similar circumstances in a market economy, for example by providing a loan on commercial terms and at a commercial interest rate, properly taking into account risks and/or making an equity investment on the terms and for the return which a private investor would do, then the activity is not considered to be unlawful state aid.

- 4.4.9 Steps have therefore been built into the project to ensure that at the time any loan is taken external advice demonstrates that it is commensurate with the terms and interest rate offered in the market. Structuring the Council's support for the AHC in compliance with the MEIP will involve a contract between the Council and the AHC which will specify the terms of the Council's financial support of the AHC including the undertaking given by the AHC, the duration of the loan and the method for calculating the aid, restriction for using the aid to support market rent or private sale units and a method for monitoring and potentially recovering aid.
- 4.4.10 The AHC will be accountable to the Chief Financial Officer the Council. It is proposed that the AHC will be controlled by a board of 3 to 7 directors, based on advice from the external legal advisors, with the majority being Council nominees. The legal advice recommends but does not require independent directors to establish better separation from the Council and to allow decision making where conflict of interest exist.
- 4.4.11 It is proposed and confirmed in the legal advice, that the Council may seek to use the "Teckal" exemption for services between the Council and the AHC based on the Council retaining sole ownership of the AHC and a substantive proportion (80%) of the AHC activities being services for the Council.

4.5 Staffing & Resources

- 4.5.1 Forming and operating the AHC will require only existing resources of the HEDP and the Council legal department.

4.6 Financial

- 4.6.1 Forming a limited company will entail only minor cost. The drafting of Article of Association will cost £1.5k. The Council legal and financial departments and the HEDP will also need to contribute to the process. Any external costs will be funded by the existing HEDP budget.
- 4.6.2 Once formed the new subsidiary company will be funded as follows:
- the Council will loan sufficient funds to the AHC to enable purchase of the properties;
 - the Council will fund these loans from the General Fund;
 - funding of the projects will be dependent upon showing that borrowing is prudential given the income expected through property rental;
 - the Council will charge interest on the loans made to AHC and AHC will repay the loans over periods of around 40 years;
 - the AHC must have a sustainable business case based on the viability of the individual projects within the portfolio.

4.7 Asset Holding Vehicle Recommendation

4.7.1 Delegate authority to Chief Finance Officer in consultation with the Cabinet Portfolio Holder to incorporate a Council owned and controlled Asset Holding Company upon terms which ensure that it is accountable to the Chief Finance Officer, including establishing its governance, management and financial arrangements, and to take all legal financial and other steps necessary to ensure that the company is in a position to be able to commence operations.

5.0 Environmental, Human Rights, Community Safety, Youth, Anti-poverty Implications.

5.1.1 The work of the HEDP will give the Council greater scope to deliver its wider role of community wellbeing. Developing the wider economy and encouraging investment in homes in a sustainable and equitable way will help reduce crime, improve the environment and contribute towards human rights.

Lead Officer: Paul Turton, HEDP Project Director 01323 436465

Background Papers:

The Background Papers used in compiling this report were as follows:

None

To inspect or obtain copies of background papers please refer to the contact officer listed above.

Appendix 1 - Beach huts; Key stages phases one and two.

Key Stages		Key Stages	
Phase one; 20 Traditional Huts	<u>Date</u>	Phase two; 5 Bespoke/designed	<u>Date</u>
Business case development and initial consultation with planning, environmental agency	August/Sept 2014		
Detailed Cabinet report and seek approval for 25 huts and design competition	October 2014		
Consultation with residents, local businesses and interested groups e.g. Hospitality Association	November 2014 to December 2014	Consultation with residents, local businesses and interested groups e.g. Hospitality Association	November 2014 to December 2014
Planning application submission/approval	December 2014 to January 2015	Complete design competition brief for tender	February 2015
Tender and procurement for huts	February 2015 to March 2015	Bids submitted for design competition and contract awarded	May 2015
Phase one huts in situ	April 2015	Design competition	June 2015 to September 2015
		Planning application submission/approval	October 2015 to December 2015
		Tender and procurement for huts	January 2016 to February 2016
		Phase two huts in situ	March 2016

Appendix 2 - Beach huts: Costs and income.

Cost/Income	20 Traditional Huts	5 Bespoke Designed Huts	Total
Capital costs	£135,240	£100,00	£235,240
Income per hut per annum	£ 1,500	£ 5,400	£6,900
Income year 1	£ 30,000	£ 27,000	£57,000
Void and Bad Debts	£6,600	£5,940	£12,540
Maintenance/Management cost p/a	£ 7,000	£ 1,750	£8,750
Major Repair provision	£194	£1,404	£1,598
Loan Interest	£6,086	£4,500	£10,586
Surplus year 1	£10,120	£13,406	£23,526