

**Report to:** Cabinet

**Date:** 13 July 2023

**Title:** Housing Development & Assets Update

**Report of:** Ian Fitzpatrick, Deputy Chief Executive and Director of Regeneration and Planning

**Cabinet member:** Councillor Zoe Nicholson, Leader of the Council and Cabinet member for Finance, Assets and Community Wealth Building

**Ward(s):** All

**Purpose of report:** To provide an update on the housing development and delivery programme.

**Decision type:** Key

**Officer recommendation(s):**

- (1) To note the progress of the housing development and delivery programme as set out in Appendix 1.
- (2) To approve the purchase and development of land and assets at Peacehaven Golf and Fitness to deliver new Council homes in accordance with Appendix 2 (Exempt) including making an allocation within the HRA Capital Programme 2023/24 of up to £3.1m, subject to contract, valuation, and full due diligence.
- (3) To approve a waiver to the Council's Contract Procedural Rules (CPR) to allow the direct selection of the contractor(s) associated with the Peacehaven Golf & Fitness proposals for the reasons as set out in the report.
- (4) To approve and implement a new Revolving Loan Fund within the capacity of the existing General Fund Capital Programme 2023/24 to support further sustainable community-led housing developments within the district.
- (5) To approve the criteria for HRA rationalisation as set out and to dispose of assets in order to further the capacity of the Capital Programme to deliver more Council homes across the district.

**(6) To authorise the Director of Regeneration and Planning, in consultation with the Chief Finance (S151) Officer and Lead Member for Finance, Assets and Community Wealth Building, to progress recommendations 2, 3, and 4 in this report and to conclude them including the approval and implementation of all processes and procedures, negotiation and agreement of terms, award of contract(s), and authorising the execution of all related documentation.**

**(7) To authorise the Director of Service Delivery, in consultation with the Chief Finance (S151) Officer, Lead Member for Finance, Assets and Community Wealth Building, Lead Member for Tenants and those in Housing Need, and the Tenants of Lewes District (TOLD) to progress recommendation 5 to dispose of identified HRA assets including negotiation and agreement of terms and authorising the execution of all related documentation, subject to any or all of the agreed criteria as follows:**

- **The cost of any repair work is prohibitive compared to the market value of the property**
- **The cost of running the property is unaffordable being of sub-standard quality / efficiency**
- **The sales receipt generated is capable of delivering an overall net gain in new homes**
- **The capital receipt generated from the sale is ring-fenced to support the HRA Capital Programme**

**Reasons for recommendations:**

**(1) To provide Cabinet with an update on the growing housing development and delivery programme, specifically in the context of the 'Reimagining Lewes District' Corporate Plan 2020-2024.**

**(2) To further community-led housing development opportunities within the district underpinned by a secure financial instrument.**

**(3) To support HRA finances in the context of current pressures and further the Council's objectives to build and maintain quality, affordable, and sustainable homes.**

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## 1 Introduction

- 1.1 This report provides Cabinet with an update on the housing development and delivery programme across Lewes District.
- 1.2 This includes opportunities for supporting increased community-led housing schemes and proposals to rationalise Housing Revenue Account (HRA) assets in the context of current financial pressures to:
- Keep the homes of our residents well maintained, and
  - Increase the number of new dwellings available to meet the demands of the housing waiting list.

## 2 Background

- 2.1 The 'Reimagining Lewes District' Corporate Plan 2020-2024 set out clear goals for Council housing over the 4-year period:
- 200 new additional council houses.
  - More sustainable and energy efficient homes across the district.
  - Opening up access to quality housing options for low-middle income residents.
  - Accessible housing for those with physical and additional support needs.

This also included building more homes in our villages and more rural locations across the district, reducing our reliance on temporary and emergency accommodation, finding solutions for smaller brownfield and infill sites, and increasing the use of modular construction.

- 2.2 The Corporate Plan was implemented during a time of unforeseen and unprecedented challenges, including the global Covid-19 pandemic, Brexit, and Russia's invasion of Ukraine, all of which had a compounded crippling impact on the UK national economy.
- 2.3 On 9<sup>th</sup> June 2022, a housing development update to Cabinet set out the implications and consequences of the impact including:
- **Inflation** – significant increases to costs impacting on financial viability.
  - **Supply chains** – labour shortages delaying programme delivery.
  - **Land and property values** – increases affecting affordability and re-setting "value for money".
  - **Fuel prices** – increases impacting our residents and their household affordability, making running costs as crucial as rent levels.

Over 12-months later, the Council continues to face financial pressures as set out in the 2023/24 budget papers.

- 2.4 The Council approved the HRA Revenue Budget and Capital Programme 2023/24 in February. The HRA Business Plan remains under significant financial strain due to increases in costs but also further exacerbated by the social housing rent cap implemented by Government for this financial year. Although the Council recognised the importance of supporting our residents, the cap limits

the Council's ability to balance costs with increased income, and so alternative saving and efficiency measures will need to be considered.

2.5 The Council has been actively engaging with the Department for Levelling Up, Housing and Communities (DLUHC) during this time alongside other stock holding local authorities to help the Government understand the implications on services and our residents. This has led to some temporary relaxations as follows:

- A small reduction to Public Works Loan Board (PWLB) borrowing rates for new homes up to the end of 2024/25 Q1.
- An increase in Right to Buy (RTB) receipt retention from sales in 2022/23 and 2023/24, to be spent within 5-years.

Although a welcome relief, the measures are not permanent, and alone will not resolve the extent of the financial pressures faced. Grants from Government remain available for affordable housing (Affordable Homes Programme 2021-26) and brownfield land (Brownfield Land Release Funding), which the Council has successfully secured on its own schemes, but the amount offered has not increased proportionately to costs and the 'new normal' we now operate in.

2.6 In an effort to maintain (including the management of damp and mould cases) and decarbonise our existing homes whilst also building new homes, the Council will need to do a "deep dive" of the social housing stock to ensure assets and values are being maximised. Alongside those HRA interventions, the Council will need to look at alternative ways to support truly affordable housing delivery within the district to ensure supply meets demand, which will include supporting more community-led initiatives.

### 3 Programme

3.1 However, in spite of the significant challenges, the Council has been able to drive forward a successful and diverse programme of sustainable new build developments, acquisitions, and supported community-led schemes as summarised in Appendix 1.

3.2 This pipeline includes opportunities to deliver new custom-build accommodation utilising grant funding obtained via SPACES, the One Public Estate (OPE) body for East Sussex, which will see increased options for specially adapted homes as has been progressed in Ringmer (Mill Road).

3.3 Since the last update was provided, the status of the following pipeline projects has also changed:

- **Rough Sleepers Accommodation Programme (RSAP) 2022/23** – the Council secured funding to deliver up to 6 units. However, due to the highly restrictive timescales for drawing down funds, the Government programme deadlines could not be reasonably met. The Council has, however, secured the Local Authority Housing Fund (LAHF), supporting refugees and reducing the pressures of homelessness.
- **Former Fire Station, Newhaven** – in November 2022, Cabinet approved the principle of the development. However, the priorities of East Sussex

Fire & Rescue Services (ESFRS) have changed, and now require the site to facilitate a new vehicle “hub”. It is therefore expected that the purchase of the site will not proceed.

- **2-6 Fort Road, Newhaven** – the limitations of the site make it difficult to develop a viable business case for re-development. However, options continue to be explored for ways to support a development of the site including discussions with Newhaven Town Council (NTC) regarding their Meeching Hall, which could include utilising capital receipts from the disposal of high cost / inefficient HRA assets (see below).
- **Rusbridge Cottage, Lewes** – as above, the site viability has become challenged in the context of the current market economy. Officers are reviewing the previous scheme concept to find new ways to support the development finance, which could, again, include utilising capital receipts from the disposal of high cost / inefficient HRA assets (see below).

3.4 In June 2022, Cabinet authorised feasibility work to be progressed utilising existing revenue budgets to develop the next phase of sites on Council-owned land following a strategic review of HRA and General Fund assets. The sites are showing in Appendix 1 under the heading ‘Asset Review (Phase1)’ and remain in the feasibility stage.

3.5 The Council continues to review assets, including a number of General Fund sites (e.g., car parks), that could form part of the growing Council housing pipeline toward future Corporate Plan objectives. Further work still needs to be undertaken to assess feasibility and viability but will be subject to further consultation with Ward Councillors and other key stakeholders before being presented back to Cabinet.

3.6 The housing pipeline continues to explore different construction methodologies to support corporate objectives, which includes the Modular Housing Framework the Council previously procured and awarded to Boutique Modern based in Newhaven. The framework is available to all local authorities in the Sussex and Greater Brighton area.

#### **4 Peacehaven Golf & Fitness**

4.1 The Council has been approached by the landowner and their agent in relation to Peacehaven Golf & Fitness, Brighton Road, Newhaven BN9 9UH. The current club house is under-utilised and no longer fit for purpose to meet the club’s ongoing operational needs. The landowner is therefore seeking to dispose of a parcel of land (including the existing clubhouse) for housing using the capital receipt to finance their re-provision of a new clubhouse on another part of the site.

4.2 Subject to planning (including conversion, extension, and change of use of the existing clubhouse), the proposal presents an opportunity for Lewes District Council (LDC) to acquire the site to provide 16 x Council homes. The landowner is offering the site on the basis the Council enters into a development agreement with their appointed developer, who will be working on their retained part(s) of the site.

- 4.3 The homes will be of traditional construction but adopt a “fabric first” approach to incorporate integral sustainability features including high thermal insulation, heat pumps, and rainwater harvesting systems. The development will provide a net gain of green spaces by over 55% based on the current plans.
- 4.4 Pre-application discussions with the South Downs National Park Authority (SDNPA) have so far been positive and more detailed plans are currently being prepared to support a full planning application, subject to the Council’s commitment to take a part of the site for housing.
- 4.5 A non-binding conditional offer has been made in principle based on a viable business case detailed in Appendix 2 (Exempt). Subject to contract, valuation, planning, and due diligence, it is proposed that the Council proceeds to acquire and develop out the land (including existing club house) to support its housing objectives. The arrangement offered by the landowner will require a waiver of the Council’s Contract Procedure Rules (CPR) to enter into a direct contract with their appointed contractor. This is similar to the back-to-back land and development agreements entered into on S106 schemes.
- 4.6 Should the Council choose not to proceed, it is unlikely that all homes proposed will come forward for Council housing – as a private developer is likely to develop just the minimum planning requirement of affordable homes. The arrangement therefore not only supports the Council’s Corporate Plan objectives but secures more affordable housing options for the area.

## **5 Revolving Loan Fund**

- 5.1 The General Fund Capital Programme 2023/24 includes capacity for a new Revolving Loan Fund of up to £350k to progress more sustainable community-led housing initiatives within the district.
- 5.2 In 2022/23, the Council entered into a new 4-year Service Level Agreement (SLA) with Action in rural Sussex (AirS) funded via the ring-fenced remaining Community Housing Fund.

The SLA has a number of key outputs:

- To promote increased awareness of community led housing across the district.
- To enable more community-led housing schemes to form part of the growing pipeline for the district.
- To engage with more community-led housing groups within the district to further affordable community living opportunities.
- To deliver excellent quality community-led housing solutions, which are local, affordable, sustainable, and resilient.

A report on progress will be provided to Cabinet regularly as part of future housing development updates.

- 5.3 Cornwall Council has been a leading example of community-led housing delivery. Their Revolving Loan Fund was originally established by a collaboration of District Councils before being amalgamated into the Unitary

Authority in 2009. Cornwall initially offered grant schemes to support the initial feasibility stages of a project met from allocated revenue budgets. This was however provided effectively at risk, and it became apparent that capital funding to support the construction stage of projects was as much (if not more) of a challenge, which led to the development of the fund.

5.4 Since the initial launch in 2012 and subsequent re-launch in 2018, Cornwall Council have supported 12 x different schemes enabled by the fund. The ability for the fund to meet short term and/or unforeseen borrowing requirements made a significant difference to the first generation of projects in Cornwall.

5.5 The funding model includes key criteria:

- Loans are for the capital development and construction of new affordable housing.
- Eligible costs can include the purchase of land, buildings, construction, and conversion of a building (where this will result in the provision of new affordable housing).
- Any site acquisition costs must form part of a fully funded scheme.
- Loans are offered on a scheme-by-scheme basis up to 18-months.
- Loans are secured against the asset by way of a legal charge and must be repaid within 12-months of scheme completion.
- Interest is charged in accordance with Subsidy Control requirements.
- An arrangement fee is charged to cover the related administration and legal costs, set on a scale basis reflecting the loan terms.

5.6 AirS are supporting the Council to establish terms for the Lewes Revolving Loan Fund and will shortly be undertaking a 'soft market testing' exercise to better understand local demand, capacity, and capability. The final terms adopted will then be subject to detailed legal and financial due diligence, made in accordance with the Council's Financial Regulations. If the fund is successful, there is potential for the scheme to grow in the future.

## **6 HRA Asset Disposals**

6.1 To achieve the Council's objectives in providing affordable, sustainable, and accessible homes, both new and existing, it has been necessary to review the existing social housing stock to identify properties that are inefficient and a high cost to repair, maintain, and / or run – impacting on the HRA Business Plan and the affordability of our residents.

6.2 In the circumstances where such properties are identified, there is a decision to be made about how the Council approaches value for money and making the best use of assets for local people. In some (limited) instances, it will be more cost effective to dispose of the asset to reduce burdens on the HRA and generate income to support the delivery of new homes – built to the Council's high standards for quality and sustainability.

6.3 In 2022/23, Cabinet approved the sale of assets on this basis - long-term vacant, inefficient, and high-cost, generating capital receipts to support new Council homes:

- 13 Paddock Road, Lewes

- 15 Talbot Terrace, Lewes

6.4 To ensure the Council has autonomy over this process, making effective decisions in the context of time, cost (including rent loss), and market competitiveness, it is proposed that Cabinet delegates authority to the Director of Service Delivery in consultation with Chief Finance (S151) Officer, Lead Members, and TOLD based on any or all of the key criteria being satisfied in each instance as follows:

- The cost of any repair work is prohibitive compared to the market value of the property
- The cost of running the property is unaffordable being of sub-standard quality / efficiency
- The sales receipt generated is capable of delivering an overall net gain in new homes
- The capital receipt generated from the sale is ring-fenced to support the HRA Capital Programme.

6.5 The delegation will be used sparingly, and it is expected that this will only apply to a limited (by exception) number of properties in the context of the total social housing stock. The capital receipts generated will help to support the HRA Capital Programme, including the development of new Council homes, resulting in an overall net gain of available homes to meet local housing needs.

## **7 Corporate Plan and Council Policies**

7.1 These proposals meet the following objectives in accordance with the 'Reimagining Lewes District' Corporate Plan 2020-2024:

### Sustainability and Climate Change

- Building energy efficient homes, including low carbon heating technologies, to ensure homes are not only cheap to rent but also affordable to live in.
- Use of renewable technology to increase energy re-use and efficiency.
- Increased site biodiversity.

### Building Community Wealth

- Leading on the best use of public sector land and property assets.
- Through procurement, using established contractors to support the use of local sub-contractors and supply chains to increase local spending, employment, and training opportunities.
- Inclusion of new skills, training, and apprenticeships.

### Delivering Homes

- Form's part of the 200 new additional council houses target.
- Adds to more sustainable and energy efficient homes across the district.



- Increases the availability of quality homes for low rents.
- Inclusion of adaptable units to provide accessible homes.
- Supports households directly from the housing register and reduces the reliance on temporary / emergency accommodation.

7.2 Ward Councillors were consulted on pipeline schemes prior to the May 2023 local elections however, given the changes in the Council membership, further consultation is being undertaken. This will continue to be an iterative and ongoing process.

## 8 Business Case and Financial Appraisal

8.1 The HRA Capital Programme 2023/24 included an allocation for new build housing development and acquisitions across the Medium-Term Financial Plan (MTFP) as follows:

	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>
<b>New build</b>	£6,238,000	£7,601,000	£5,200,000
<b>Acquisitions</b>	£1,354,000	£3,900,000	£3,825,000

There is also an identified capital underspend in 2022/23, which has been carried forward into this financial year to support the programme. Those schemes in progress already approved by Cabinet are in accordance with the budget allocations within the MTFP.

8.2 The HRA Revenue Budget 2023/24 includes an allocation of £189k to undertake feasibility work on new potential housing development sites to support business case development up to planning, subject to Cabinet approval. At the point Cabinet approve a scheme and capital budget, the relevant feasibility costs are capitalised to that project releasing capacity within the feasibility budget. This budget is being utilised to further the Asset Review (Phase 1) schemes as previously considered by Cabinet in 2022/23, subject to further and ongoing consultation.

8.3 Cabinet is asked to approve a new project budget of up to £3.1m to progress the purchase and development of land at Peacehaven Golf & Fitness, subject to contract, valuation, and due diligence. The HRA Business Plan has sufficient capacity to hold this site and, with other projects now not progressing (i.e., the Former Newhaven Fire Station), this can be met from existing approved budgets within the Capital Programme as set out above.

8.4 Any investment requiring a capital outlay presents an element of risk. The risk here is however considered as acceptable based on the business case as set-out in Appendix 2 (Exempt). Any other risks can be mitigated and managed through careful construction management and continued technical due diligence.

8.5 The creation of a Revolving Loan Fund will help to support local community groups to bring forward new sustainable affordable housing options alongside the Council's own pipeline in-line with Corporate Plan objectives. There is capacity within the General Fund Capital Programme 2023/24 to support these proposals. The terms of any loan will require further financial due diligence,

specifically to ensure the Council is adhering to its prudential requirements and control measures around subsidy, which will be further developed alongside the market testing being led by AirS under the SLA. The Council will also be able to consider examples of good practice and benchmark to those organisations (e.g., Cornwall Council).

- 8.6 The disposal of any HRA assets shall have an impact on the Business Plan. However, in the context of the criteria, the properties will be sub-standard / high cost / rent losing, and the production of capital receipts supports the HRA Capital Programme, specifically the project finance of new / existing Council housing schemes to generate an overall net gain of available homes. The impact is therefore assessed as acceptable.
- 8.7 The recommendations within this report will continue to be subject to financial due diligence, monitoring, and review as part of the Council's usual budget management and monitoring processes.

## **9 Legal Implications**

### **9.1 Purchase and development of land and assets at Peacehaven Golf & Fitness**

The Council can rely on Section 9 of the Housing Act 1985 (HA 1985) to acquire land and undertake the development at Peacehaven Golf & Fitness, subject to planning. This is a power to provide sub-market rented housing for its area i.e., to address a gap in the housing market and meet the needs of the local community. RTB will apply to these properties.

In disposing of properties, Section 32 of the HA 1985 permits the Council to let on secure tenancies without the requirement for Secretary of State consent.

The Council will take full advice on any title issues associated with any development and in respect of appropriate ways to address any issues revealed.

### **9.2 Revolving Loan Fund**

Section 1 of the Localism Act 2011 (the general power of competence) allows the Council to make a loan. The loan will be documented and secured against the asset by way of a legal charge where the loan is to purchase or develop land.

The UK subsidy control regime commenced on 4<sup>th</sup> January 2023 and the Subsidy Control Act 2022 provides the framework for the guidance. If the loan is on commercial lending rates there will be no subsidy. If the loans are such that a subsidy is being granted, the Council will take further steps to ensure compliance with the subsidy control regime. For smaller value subsidy awards, the Minimum Financial Assistance (MFA) rules may apply. MFA allows financial assistance up to a maximum limited of £315,000 to a single enterprise within a rolling period of three financial years without the need to comply with the majority of the subsidy control requirements.

### **9.3 Disposal of HRA assets**

Section 32 of the HA 1985 requires the Secretary of State's consent for the disposal of land held for the purposes of that Act (i.e., HRA land). The Secretary

of State has issued a general consent (A3.1.1 of the General Housing Consents 2013) for the disposal of such land for a consideration equal to its market value (subject to certain exceptions, which are not relevant here).

*[Iken ref: 12144 KS 11 June 2023]*

## 10 Risk Management Implications

10.1 The key risks and mitigations at this stage are set out in Table 2:

<b>TABLE 2 – Risk Management Implications</b>		
	<b>Risk</b>	<b>Mitigations</b>
1	Costs for developing small sites may prove too high to be viable	By selecting small local firms to deliver sites, overheads can be kept to a minimum. Some sites can be delivered as part of a wider agreement by a modular house builder. Consideration is also being given to available government grant funding.
2	Increasing construction costs due to inflation and instability of interest rates impacting on development viability	The market continues to be monitored closely and the viability of each scheme in the pipeline will be assessed on their own merits, with reference to the Business Plan(s). Specialist/external advice will also be taken from independent agencies and the Council will look to enter into fixed price contracts wherever possible.
3	Planning may be refused on some sites	Extensive pre-application discussions and due diligence will take place on all sites prior to a formal submission.
4	Abortive costs as a result of sites not taken forward	The feasibility budgets were approved on this basis, understanding there is a risk element to exploring scheme capacity, which will be managed, monitored, and minimised in the early stages of each project. Schemes without sufficient viability and strategic benefit will be aborted to reduce the risk of unnecessary cost exposure.
5	Section 106 sites not being taken forward	There is a potential risk that the Developer does not take the scheme forward, thereby the Council will be unable to provide expected affordable housing provision to meet the rising demands of the Housing Waiting List.
6	Entering into a direct contract outside of the CPRs	The terms of contract will continue to be subject to legal / financial due diligence, also an ongoing assessment to ensure value for money. This type of arrangement is only ever considered by

		exception or where there is no other alternative (i.e., the Peacehaven Golf & Fitness site is not being offered on any other basis).
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## **11 Equality Analysis**

- 11.1 The proposals outlined in this report have no direct impact relating to equality and fairness, but ultimately aim to improve affordability for residents and create new opportunities to meet a range of close needs including for those who may be disabled, of an older demographic, and / or young families.

## **12 Environmental Sustainability Implications**

- 12.1 The proposals within this report adhere to the Council's Sustainability Policy and objectives to deliver quality, affordable, and sustainable homes to meet the demands of the Housing Waiting List and a range of locally identified needs.
- 12.2 All homes continue to be built in accordance with the Council's Employers Requirements (ERs), which includes clear criteria regarding sustainability, as well as the requirement to adhere to the 'Healthy Homes Principles' as per a previously approved Council Motion.

## **13 Contribution to Community Wealth Building**

- 13.1 The procurement of works and services are undertaken using the Council's adopted Social Value Charter. The Charter considers and assesses important elements over and above financial cost. The Charter aims to ensure sustainability and value in the community. Appointments of main contractors will continue to utilise the Modular Housing Framework alongside local partnerships and supply chains as appropriate. The Charter encourages the use of local Small & Medium Enterprises (SME), which in turn increases local employment and training opportunities.
- 13.2 The Council continues to work closely with local education partners, including the East Sussex College Group (ESCG), to ensure opportunities for apprenticeships and work placements are integrated and embedded within the capital development projects delivered including those for new homes.
- 13.3 As above, the delivery of new Council homes will utilise the latest Employers Requirements (ERs), encompassing the current thinking on sustainable house building, 'Healthy Homes', and social housing decarbonisation.
- 13.4 The housing delivery programme also priorities the building on brownfield sites, which are typically ignored by the private sector due to the additional challenges and costs, which helps to promote local regeneration and place making improvements. This includes the re-use of public sector land, utilising partnerships including SPACES (One Public Estate), which can be demonstrated on schemes such as the purchase and development of the former Police Station in Newhaven. If the Local Authority did not use its position in the

community to intervene and make best use of these sites, then they would be unlikely to come forward, specifically to support local priorities.

## **14 Appendices**

- Appendix 1 – Housing development pipeline
- Appendix 2 (Exempt) – Peacehaven Golf & Fitness business case

## **15 Background Papers**

The background papers used in compiling this report were as follows:

- LDC Cabinet – Housing Development Update – 9<sup>th</sup> June 2022
- LDC Cabinet – Housing Development Update – 10<sup>th</sup> November 2022