

Report to: Cabinet

Date: 12 February 2025

Title: General Fund Accommodation Programme

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

Cabinet member: Councillor Peter Diplock, Cabinet member for housing and homelessness

Ward(s): All

Purpose of report: To establish a new programme to acquire and/or develop additional accommodation within the General Fund to meet immediate housing priorities including reducing the pressures of homelessness.

Decision type: Key

Officer recommendation(s):

- (1) To approve the General Fund Accommodation Programme in-line with the following business case principles:
 - i. Each scheme must reduce overall cost to the council;
 - ii. Any HRA land used shall be appropriated into the General Fund;
 - iii. Acquisitions will be limited to the freehold;
 - iv. Third-party leases must be value for money;
 - v. All arrangements are subject to full legal and financial due diligence.
- (2) To approve making an initial allocation within the 2025/26 General Fund Capital Programme of up to £3.17m, subject to Full Council approval.
- (3) To approve entering into a Nominations Agreement with Eastbourne Housing Investment Company Ltd.

(4) To authorise the Assistant Director – Property and Development, in consultation with the Director of Finance and Performance (S151 Officer) and Lead Member for Housing and Homelessness, to take all necessary actions to deliver the programme, including acquisitions, appropriations, and developments, as well as determining and executing all leases, contracts, funding agreements, nominations agreements and fees, and other related documentation.

Reasons for recommendations:

- (1) To lessen the reliance and cost of nightly paid emergency accommodation.**
- (2) To increase the provision of better quality, more affordable alternative accommodation.**
- (3) To make best use of council land, assets, and resources, including Eastbourne Housing Investment Company Ltd.**
- (4) To provide autonomy and resilience in the programme delivery, enabling the council to be responsive and competitive to opportunities as they arise and in accordance with the business case principles.**

Contact Officer(s):

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1 Introduction

- 1.1 This report provides Cabinet with an overview of the proposed General Fund Accommodation Programme in-line with 2025/26 budget recommendations.
- 1.2 The programme seeks to increase alternative housing options and target reducing the costs of nightly paid emergency accommodation (EA).

2 Background and context

- 2.1 As reflected in the budget papers, the largest pressure still faced by the council comes from the increased demand and cost of temporary accommodation (TA) and emergency accommodation (EA) provision.
- 2.2 By January, the council managed 245 placements. The current provision is a vast improvement from the 2023/24 outturn position of 308 and 264 at the end of Q1 2024/25, but the demand continues to fluctuate amidst increasing costs. Although the council continues to find new ways to mitigate the pressures,

including increasing the allocation of resources and improving prevention work, the numbers and increasing expenditure continue to drive cost/risk.

- 2.3 Whilst the council continues its strategy to campaign nationally for fairer outcomes and more sustainable solutions for housing need, the existing lack of supply remains an ongoing barrier to reducing the numbers further. The council's social housing stock within the Housing Revenue Account (HRA) has a generally low turnover and the shortage of affordable private rented accommodation places more reliance on nightly paid EA. This can also mean households being placed within EA for longer.
- 2.4 Over the years, rents have increased whilst Local Housing Allowance (LHA) has been frozen. Although the rates increased in 2024/25, in most instances they remain below market levels and have again been frozen by government in 2025/26, with no assurances thereafter.
- 2.5 The council is also responsible for administering Housing Benefit (HB), paying claimants and recouping the cost from the Government. However, for households in TA / EA, the maximum amount reclaimable reflects 90% of the 2011 LHA rate ('LHA Cap'). The LHA Cap has not changed, which has consequentially increased the gap between rents and benefits.
- 2.6 The benefit regulations that underpin these restrictions only apply where the landlord is either a Local Authority (LA) or Registered Provider (RP). Advice is that the regulations do not apply to the private rented sector and, therefore, should not apply to entities such as Eastbourne Housing Investment Company Ltd (EHICL) – a company wholly owned by the council.
- 2.7 The way in which TA / EA is paid for has not kept pace with the cost of provision or the number of homeless households. This model has therefore become financially unsustainable. As such, the council recognises that the increase in the cost of provision means making changes, including (but not limited to) reducing the dependency on nightly paid EA.
- 2.8 The council has been able to utilise its relationship with EHICL in recent years to reduce some of the pressures by accessing additional accommodation for TA. In these arrangements, the council leases properties on a short-term basis owned by EHICL. Although this has undoubtedly enabled the council to access properties in a constrained market, it does not address the financial gap.
- 2.9 Although access to the (affordable) private rented sector remains challenging, recent local and national policy changes may see an increased number of properties coming to the market for sale/purchase:
- **Empty Homes Premiums** – from 1st April 2024, the council removed discounts for empty and unfurnished properties, introducing a premium for homes empty for more than 1-year.
 - **Renters' Rights Bill** – introduces private sector tenancy reforms and greater protections to tenants, including removal of Section 21 'no fault' evictions.
 - **Stamp Duty Land Tax (SDLT)** – increase to the rates on second homes.

These changes will help to ensure homes within the private sector better meet local need, which the council may be able to utilise to help resolve supply issues.

2.10 The council has also been developing a pipeline of new homes delivered as part of the HRA Capital Programme. Being amongst only 25% of councils in the UK to build any new homes in the last 10-years, this has been a significant achievement to increasing affordable housing locally and has also been fundamental in helping to reduce rising homeless numbers. However, the current programme alone has its limitations to support in this capacity:

- **Ring-fencing** – the HRA’s prime focus is to deliver and manage longer-term social and affordable housing, meeting the demands of the Housing Waiting List and the needs of tenants. Although essential to help the council discharge its duty, other non-permanent uses become more difficult and risks blurring the lines of costs/savings between the HRA and General Fund.
- **Rents** – the HRA is subject to the Government Rent Standard and associated policies, which restricts rents to a maximum of 80% of the market rent (‘Affordable Rent’). In many instances, the LHA aligns with Affordable Rents but that is not always the case, particularly when the rates are frozen and not adjusting to changing market levels. This can mean an even greater gap between benefits and rents.
- **Timescales** – homes built for long-term use typically take years to deliver, as is the nature of development. This means new homes are not coming through at a pace needed to meet the current homeless demand. Where sites are also taken through the feasibility, design, and planning processes, they can remain vacant for a pro-longed period.

Although HRA sites such as Bedfordwell Road will be crucial in meeting long-term housing need, they cannot meet the urgency of the immediate demand required by the council.

2.11 In September 2023, Cabinet considered an update on the council’s housing development and delivery programme. This included the headline outcomes of an HRA-focused Asset Review that could support with immediate and long-term housing need.

3 Programme delivery

3.1 It is therefore proposed to introduce a new programme within the General Fund that increases the supply of directly controlled council TA through:

- **Acquisitions** – purchasing existing properties in the private sector, and/or
- **Meanwhile development** – regenerating council-owned sites in advance of longer-term plans.

3.2 The programme will enable the council to more quickly and affordably access new TA supply to meet current demands, decreasing the reliance on nightly paid EA and further reducing the currently exorbitant costs to the council. Having

ownership and management of the assets will also help to improve the quality of accommodation being offered and provide more control over costs.

3.3 The market has been responding to the changing housing need in recent years and coming forward with new approaches to different accommodation requirements, using Modern Methods of Construction (MMC) to accelerate delivery timetables. The asset structures are designed to be simple in design and light weight in construction meaning they are:

- Quicker to build
- Fully demountable
- Completely transportable
- Wholly transferrable

The market has also been challenged by the sector to not compromise on quality. Therefore, although the accommodation may be temporary in the individual uses, the asset structures themselves are long lasting and will achieve industry standards for minimum durable lifecycles including accreditations such as the Buildoffsite Property Assurance Scheme (BOPAS) to meet a minimum life of 60-years.

3.4 Through existing partnerships such as Clear Futures, the council has been able to explore several options to support in the development of these proposals. In addition, specialist government projects such as the 'Prisoners Building Homes Programme' provide access to grant funding that would otherwise be unavailable whilst also generating social and community value benefits. The General Fund Accommodation will look to maximise these external funding opportunities to further reduce costs to the council.

3.5 The LHA Cap, however, remains an ongoing barrier in generating the income needed to support programme viability. As such, whilst the current regulations remain unchanged, the council must look for other ways to mitigate the disproportionate financial impacts. One way of doing this is to utilise the council's existing relationship with EHICL to support in the management.

3.6 The model of utilising a council-controlled company is being explored by councils across the country, with Clear Futures working with several other authorities on similar delivery structures. Others, such as the London Borough of Enfield, are leading in this area having already implemented a successful programme, transferring and acquiring over 1,000 properties to meet their homeless demand and saving the council millions of pounds as a result.

3.7 The key steps in the process are:

1. The council acquires and/or develops land (the Site). If the Site is held in the HRA, it is appropriated into the General Fund.
2. The council leases the Site to EHICL for TA use, on a short-term basis, and at a rent equivalent to the related revenue cost of capital.
3. The council makes placements from EA into the EHICL managed TA, underpinned by a Nominations Agreement.

4. EHICL grants a form of non-secure tenancy agreement or licence, manages the property, and recovers the full LHA unrestricted by the LHA Cap.
 5. Upon expiry, the lease is either renewed or terminated. On termination, the Site reverts to the council.
- 3.8 If/when the Site is no longer required for its initial intended purpose, it can be changed to an alternative use. For example, acquisitions can be appropriated into the HRA and then re-let on a secure tenancy agreement. For meanwhile development sites, assets can be moved and land developed for permanent housing. The assets will be owned by the council and can therefore be re-utilised or, if needed, sold. This level of flexibility will enable the council to operate a more fluid and responsive programme, maximising available sites during the development feasibility period and creating a revolving scheme of housing provision.
- 3.9 The Nominations Agreement will require EHICL to accept from the council nominations of persons or families in need of TA for a fee (the Nominations Fee), which will essentially cover any gap in costs. Should the Government remove the LHA Cap in the future, then the involvement of EHICL could be reviewed.
- 3.10 Where any HRA land is identified for meanwhile development, the Site will be appropriated into the General Fund. This is to ensure that the costs and related savings are captured within a single place. It also ensures that tenants rents and service charges are being protected within the HRA ring-fencing.
- 3.11 The programme will continue to adhere to the requirements of the council's Financial Regulations and Contract Procedure Rules (CPRs), subject to full financial and legal due diligence. The Clear Futures partnership will provide the council access to a fully pre-procured supply chain to demonstrate ongoing value for money.
- 3.12 Therefore, subject to Cabinet and Full Council approval of the 2025/26 General Fund Capital Programme, it is recommended to make an initial budget allocation of up to £3.17m in the upcoming financial year to deliver the new General Fund Accommodation Programme.
- 3.13 To ensure that the programme can be delivered effectively and efficiently, reflecting the business urgency and need to be competitive within the local market, it is recommended that Cabinet delegate authority to senior officers and lead cabinet members. Subject to a full business case for each scheme in-line with an agreed set of principles, it is proposed that the Assistant Director – Property and Development, in consultation with the Director of Finance and Performance (S151 Officer) and Lead Member for Housing and Homelessness, is authorised to take all necessary actions to deliver the programme. This will include acquisitions, appropriations, and development, as well as determining and executing all leases, contracts, funding agreement, Nominations Agreements and Nomination Fees, and other related documentation.

4 Management arrangements

- 4.1 The acquisition, procurement, and delivery of individual schemes will be managed internally by the council's Development & Acquisitions team and Homes First. The properties leased to and let by EHICL will be overseen by the EHICL Board of Directors and managed in accordance with existing arrangements.
- 4.2 EHICL will grant a form of non-secure tenancy agreement or licence, subject to further legal advice. EHICL will then be responsible for managing the occupation under the lease from the council, including the costs of maintenance, voids, and bad debts. The council will continue to discharge any statutory duties it owes to residents and will provide casework services via Homes First.
- 4.3 The council will have a continuing statutory duty towards households in TA provided by EHICL. The statutory duty can only be fully discharged when more permanent accommodation is secured, which will continue to remain a priority.

5 Corporate plan and council policies

- 5.1 The Corporate Plan 2024-2028: *Taking Eastbourne from Stability to Growth* sets out the following priorities for housing and the cost-of-living crisis:
- Reduce the reliance on TA and EA and improve prevention measures for those experiencing homelessness.
 - Develop a pipeline of directly delivered homes by the council to support priority housing objectives.

The recommendations within this report meet the objectives of the Plan.

- 5.2 The council also continues to regularly monitor and review its relationship with EHICL. EHICL has been able to successfully support the council in meeting its objectives for housing over the years including building a portfolio of more affordable private rented accommodation.

Whilst the future of the existing portfolio is now being considered, it is timely for the Board of Directors to review the company's purpose and core objectives, re-aligning to the needs of the council.

6 Business case and alternative option(s) considered

- 6.1 The following options have been considered in developing the recommendations to address supply issues:
- 6.2 Option 1 – Continue with the existing supply

This would see the council continuing to access properties as it currently does, with limited access to HRA homes due to the low turnover of stock and being reliant on nightly paid EA.

The existing position has already been identified to be financially unsustainable. Even with the additional resources, mitigations, and preventions already successfully put into place, the lack of new supply to support the increased demand remains an (unaffordable) challenge.

6.3 Option 2 – Accelerate the programme of new build homes

The council looks to both expand and accelerate the delivery of new permanent housing within the borough.

Although part of the long-term housing solution, it will not address the immediate demands and pressures the council is facing. When taking into account land availability, HRA capacity and development timescales, relying on this option alone would be prohibitive to council finances.

6.4 Option 3 – Bring forward a new accommodation programme

The council proceeds with the proposed General Fund Accommodation Programme as proposed, increasing overall supply to access new properties, maximising existing land within its ownership in the development process, and accelerating alternative, more affordable TA options.

When considering all options in the context of current organisational circumstances, option 3 is the preferred option.

7 Financial appraisal / implications

7.1 The below is an illustration of how the existing EA position works in practice for a 1-bed self-contained unit:

Annual cost of nightly paid EA per month	£21.9k
Annual benefits reclaim from government (based on 90% of the 2011 LHA)	(£5.6k)
Total monthly net cost	£16.3k

If that is then applied to 50 units, the total annual cost would be circa £815k. This quickly demonstrates the gap between rents and benefits, resulting in the unprecedented cost pressures being faced by the council and nationally.

7.2 In the current structure, the cost of TA to the council is effectively:

- The cost of the lease payment to the landlord/agent/provider
- Minus the income due from the tenant for each property
- Plus the subsidy loss from benefit reclaims

The subsidy loss, derived from the current LHA Cap under the regulations, reflects the gap in rents and benefits.

7.3 The following demonstrates a high-level worked example of the proposed General Fund Accommodation Programme for a 1-bed self-contained unit:

Capital scheme cost	£185k
Annual cost of borrowing*	£12.95k
Annual lease income	(£12.95k)
Annual Nominations Fee	£6.2k
Total annual net cost	£6.2k

**Assuming average PWLB rates of 5% per annum and Minimum Revenue Provision (MRP) at 2% over 50-years*

Compared with the existing modelled position in item 7.1, this example would save the council circa £10.1k (62%) per annum per 1-bed unit. Again, if applied to 50 units, that could result in an ongoing saving of £500k per annum.

- 7.4 The individual nature and requirement of a specific site with potential for meanwhile development will need to be considered in greater detail, taking into account the topography, existing structures, connection to existing services etc. However, the principle of saving money is clear from the modelling and individual financial assessments would be undertaken on a scheme-by-scheme basis.
- 7.5 To ensure EHICL does not operate at a loss where the income from rents (even at the current and full LHA) will be lower than the expenditure on leases including management and maintenance, the council will need to pay a Nominations Fee. This will be paid under the Nominations Agreement and agreed for each individual scheme, on the basis the net cost to the council continues to generate an annual and ongoing saving.
- 7.6 To ensure the success of the programme, it is recommended that the council and EHICL will continue to operate on an open-book basis. The payments due under the Nominations Agreement will be calculated quarterly to ensure that EHICL does not incur additional costs and that the financial benefit to the council is maximised. The arrangement will be not-for-profit, with the Nominations Fee only reflecting the real time financial shortfall to EHICL.
- 7.7 Should the LHA rates rise in the future, it may lower the Nominations Fee as EHICL will be able to raise rents to tenants in line with any rate changes and further reducing costs / increasing savings to the council.
- 7.8 Also, increasing the TA portfolio within EHICL will mean the council is removed from the letting and direct management processes. This will include EHICL taking over the obligation for repairs, maintenance, and delivery of the Asset Management Plan.
- 7.9 To ensure individual schemes achieve business case objectives, the following principles will be applied in the decision-making process and in accordance with the approved delegations:
- Each scheme must reduce overall cost to the council;
 - Any HRA land used shall be appropriated into the General Fund;
 - Acquisitions will be limited to the freehold (to reduce the risk of the council becoming a leaseholder to an independent freeholder);

- Third-party leases must demonstrate value for money;
- All arrangements will be subject to full legal and financial due diligence.

7.10 As such, subject to site specific factors and further due diligence, a capital budget allocation of £3.17m in 2025/26 would start the programme to deliver circa 15-20 units and generate potential revenue savings of up to £0.2m to reduce the equivalent annual net costs to the council. If the initial phase and proof of concept are successful, a wider programme could then be rolled out across the Medium-Term Financial Plan (MTFP).

8 Legal implications

- 8.1 The HB subsidy scheme is governed by secondary legislation: the Income-related Benefits (Subsidy to Authorities) (Temporary Accommodation) Amendment Order 2010 (SI 2010/2509), which determines what level of subsidy a Local Authority (LA) can receive from the Department for Work and Pensions (DWP) in respect of HB awards paid to the individual in receipt of TA. The subsidy scheme fixes the rate payable to LAs at 90% of the LHA rates set in January 2011. Advice is that, since EHICL is neither a LA nor a RP, it would not be subject to the limits on benefit subsidy.
- 8.2 It is therefore proposed that leases will be granted to EHICL to allow EHICL to offer accommodation as TA. It is proposed that the council will enter into a Nominations Agreement with EHICL on terms and subject to a Nominations Fee to be agreed by the Assistant Director under the delegations in this report. Under this agreement, EHICL would be required to accept from the council nominations of persons or families in need of TA and a Nominations Fee will be paid to essentially cover the gap in costs. A Nominations Agreement is not typically subject to the usual procurement rules, but further advice will be required once the details of the Agreement, Fee, and nature of the services become clearer.
- 8.3 Section 24 of the Local Government Act (LGA) 1988 provides a power to local housing authorities to provide any person with financial assistance for the purposes, or in connection with, the “acquisition etc.,, or management” of any property which is or is intended to be privately let as housing accommodation. Section 24 LGA 1988 is constrained by section 25 LGA 1988 which requires the Secretary of State’s consent to give financial assistance or provide a gratuitous benefit to a person providing housing accommodation. Assuming that the fee being paid to EHICL under the proposed Nominations Agreement will be reasonable and not greater than the benefit to the council from the services being provided, there would be no financial assistance or a gratuitous benefit to be conferred on EHICL. Further advice will be required on this point once the Nominations Fee to be paid is determined and the terms of the Nominations Agreement are clearer.
- 8.4 Where a Site is to be acquired it is proposed that the council will acquire the Site. The council will acquire in the GF pursuant to s120 of the Local Government Act 1972 (the 1972 Act) and it has a choice of powers in relation to development of housing - s9 of the Housing Act 1985, s2 Local Authorities (Land) Act 1963 or s1 Localism Act.

Where a Site is already owned by the council, and it is accounted for in the HRA, the Site will be appropriated into the GF. Land can be appropriated from the HRA to the GF pursuant to section 122(1) of the 1972 Act for an alternative purpose for which the Council is authorised to acquire land and where the land is no longer required for the purpose for which it is held immediately before the appropriation. The council delegates authority to the Assistant Director – Property and Development, to undertake appropriations. In doing so the Assistant Director will need to: (a) decide, at the time that the appropriation is proposed, whether the land is no longer required for the purpose for which it is held currently and whether the public need will be best served through placing this land within the GF and using the land for the proposed purposes; and (b) approve and authorise any appropriation considered necessary by him as a result of his decisions under (a).

- 8.5 Once a Site is in the GF, the council can grant a lease to EHICL pursuant to the 1972 Act. It cannot dispose of land held in the GF for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State, however, this rule only applies to leases where the lease term exceeds seven years.
- 8.6 If there is any subsidy to EHICL the council will need to ensure compliance with the Subsidy Control Act 2023.

9 Risk management implications

- 9.1 The following table highlights key risks and mitigations:

	Risk	Mitigations
1	Rules and restrictions around the appropriation of land from the HRA to the General Fund	Extensive legal advice has been sought on appropriation for past schemes (e.g., Bedfordwell Road and Southfields Road car park), which can be utilised to support the proposals.
2	Confirming costs of the programme to the council	Detailed financial and viability appraisals will be undertaken on a scheme-by-scheme basis, assessed against the proposed business case principles, and progressed in accordance with the approved budget and within an agreed delegations / governance structure.
3	Legal, procurement, and subsidy implications of leasing sites to EHICL	The council can lease land and assets under its general powers. The procurement and subsidy implications, particularly regarding EHICL, shall be subject to further legal review.
4	Approach to resolving the financial barriers caused by the existing regulations and LHA Cap	In principle, it would seem the regulations do not extend outside of a LA or RP. However, this will continue to be subject to more detailed legal and financial due diligence. Also, engagement with other

		councils such as the London Borough of Enfield on their approach.
5	Mitigating cost exposure and risk to EHICL	The Nominations Agreement and Nominations Fee will support viability within EHICL on a not-for-profit basis – only covering any shortfall in rental income and lease / management costs.
6	Statutory planning risk to meanwhile development	The planning implications will be considered in more detail, both generally (process for temporary structures) and on a scheme-by-scheme basis.
7	The housing demand / need has changed and assets no longer required for the original intended purpose, leaving the council with redundant sites	In the event the original use is no longer required, the council can: <ul style="list-style-type: none"> a. Terminate the lease with EHICL b. Relocate / dispose of the modules c. Re-utilise the land / asset for permanent housing, including appropriation to the HRA

10 Equality analysis

- 10.1 The proposals outlined in this report will create new housing opportunities for people who are homeless and in TA / EA. The proposals will eventually deliver positive impacts for those in need of Temporary or Emergency Accommodation. Often these are the most vulnerable people in our society including those with long-term health conditions (including severe mental health conditions and alcohol/ substance dependencies) former armed forces personnel and households with children).
- 10.2 The properties will be let and managed by EHICL. The proposed TA accommodation is only temporary, whilst other, more permanent accommodation is sought. On the basis more permanent accommodation is through the Council, this will be subject to existing Homes First processes and procedure to ensure the needs of individuals/families are met.

11 Environmental sustainability implications

- 11.1 There are no broad environmental sustainability implications to the programme. The implications will be considered on a scheme-by-scheme basis, particularly when considering meanwhile developments, in accordance with the requirements of planning and the council's own Employers Requirements (where adaptable to the drivers of the programme).
- 11.2 Any meanwhile development will also have a positive, regeneration impact on existing council-owned sites, many of which are vacant and in a poor condition.

12 Background papers

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

- 12th February, Eastbourne Borough Council Cabinet - General Fund Budget 2025/26 and Capital Programme
- September 2023, Eastbourne Borough Council Cabinet - Housing Delivery & Asset Update
- 18th October 2023, London Borough of Enfield Cabinet – Temporary Accommodation Programme