

Body: Cabinet

Date: 3rd February 2016

Subject: Changes to Housing Strategy and HRA Asset Management Strategy

Report of: Ian Fitzpatrick, Senior Head of Community

Ward(s) All

Purpose: To provide an update on national policy changes for Council housing arising from the Welfare Reform and Work Bill and the Housing & Planning Bill currently before Parliament. To approve the sale of a number of housing properties; and in advance of the Bills becoming law, approve changes to the delegation for disposal of Assets to enable Eastbourne's housing stock to be managed sustainably and in line with national best practice.

The report also seeks Cabinet authority to obtain external specialist advice to assist the review of homelessness decisions when considering applications for accommodation under Part 7 of the Housing Act 1996.

Recommendation(s): 1. That Cabinet grant delegated authority to the Senior Head of Community–

- (i) To dispose of 7 properties as identified in the confidential appendix 1.
- (ii) To dispose of the freehold of the properties to existing occupiers as identified in appendix 2.
- (iii) To approve the use of external specialist advice, where necessary, to conduct homelessness reviews under Part 7 of the Housing Act 1996.

2. That Cabinet approve a loan on market terms to Eastbourne Housing Investment Company Ltd (EHICL) to enable the company to purchase the properties listed in appendix 3.
3. That Cabinet approves the amendment to the Scheme of Delegations to the Senior Head of Community as set out at paragraph 7 below.

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1.0 Background/Introduction

- 1.1 The Government's Summer budget that was presented to Parliament on 8 July 2015 included several policies that have significant implications for social housing.
- 1.2 The Welfare Reform and Work Bill (published on 13th July 2015, and currently at Committee Stage in the House of Lords) contains recommendations including the introduction of a 1% reduction in social housing rents for four years from 2016/17. This is detailed in the Housing Revenue Account (HRA) rent setting report.
- 1.3 The Housing and Planning Bill (published on 13th October 2015, and currently at Committee Stage in the House of Lords) contains recommendations regarding:
 - The sale of council housing high value assets;
 - Pay to Stay: the mandatory introduction of higher rents for residents earning higher incomes.
- 1.4 The impact of these recommendations was highlighted in the HRA business plan report to Cabinet in December 2015.

2.0 The Housing and Planning Bill

2.1 Sale of council housing high value assets.

Clause 62 of the Housing and Planning Bill refers to local authorities being required to make a payment to the Government, representing the market value of the high value stock that is estimated to become

vacant during the year. It is likely therefore that Local authorities will be required to make upfront payments based on assumptions about the number of their high value properties that will become void.

- 2.2 The intention is that monies raised from high value voids will be used to fund the Right to Buy discounts given to Housing Association tenants, provide replacement affordable housing on a one for one basis, and establish a Brownfield Regeneration Fund.
- 2.3 The HRA business plan has been remodelled to reflect the impact of 80 properties being sold over each year over the next 4 years.

3.0 'Pay to Stay'

- 3.1 Clause 74 of the Bill gives the Secretary of State the power to set the levels of rent that registered providers of social housing 'must charge' a high income tenant. High income is defined as household income of more than £30,000 outside of London. The Bill does not define what the rent levels will be; these are to be set out in future rent regulations.
- 3.2 The government has previously indicated that the policy is likely to contain a taper so that tenants earning just above the threshold may not immediately have to pay market or near market rent.
- 3.3 Clause 79 of the Bill requires local authorities to pay the additional rent collected to the Government to contribute towards reducing the deficit. No extra HRA income is projected, for this reason. The cost of administering the change is not yet known but it has been indicated that councils will be able to retain a proportion of the assumed additional rent to cover administrative costs.
- 3.4 It should be noted that Pay to Stay could lead to an increase in Right to Buy applications from households facing a significant rent increase. It is intended that the Pay to Stay policy will come into effect in 2017/18.
- 3.5 To accommodate these expected policy and legislative changes, the Council needs to consider how to best manage its housing stock to meet housing need and to ensure a sustainable Housing Revenue Account.

4.0 Proposed Housing Stock for Disposal

- 4.1 Looking ahead and as noted above, we currently understand that the Council will need to make a payment to the treasury based on assumptions on the value of high value void properties arising from April 2017. The requirement to make a payment will not, based on

current information, reflect the actual properties that become vacant during the period.

- 4.2 Given that the payment is not likely to be dependent on actual vacancies and to give flexibility to retain properties within the stock in the future, it is prudent to consider current vacant stock and how receipts from disposals now could be used to meet future demands. On this basis, a number of current properties have been assessed for disposal. Details relating to each disposal are listed in appendix 1.

5.0 Disposal of Freehold Housing Assets

- 5.1 On behalf of the Council, Eastbourne Homes Ltd currently manage 12 blocks of flats which are all leasehold. The addresses of each block and recent valuation are provided under confidential appendix 2. These are listed below together with freehold valuations supplied by *Kingston Morehen Chartered Surveyors*.
- 5.2 It is considered best practice (based on a paper published by the *Leasehold Excellence Network*, part of *Housing Quality Network*) for fully leasehold blocks to be disposed of, to enable the freeholder to concentrate on their remaining stock. The valuations take into account the remaining terms of the leases (all 100 years+) and the ground rents receivable. Most of the latter are fixed at a low rate (£100 p.a.).
- 5.3 The HRA receives other income related to service charges (currently 15% on general expenditure and 5% on major works). Historical analysis of service charges (management fees) for these properties reveals generally very low charges have been levied. Major works charges are levied irregularly and cover our actual costs. Management of freeholds does ensure proper management of the housing stock, however, given that there are powers to tackle poor management and the need to address pressure on the HRA disposal is recommended. It also allows leaseholders to take control of their properties through self-management if they wish to purchase.
- 5.4 It is therefore recommended that Cabinet grant delegated authority to the Senior Head of Community to dispose of the freehold of all properties listed in the confidential appendix 2 to existing owners and future freeholds where all have been sold as leasehold. Should existing leaseholders not wish to take up the freehold the Council will retain the freehold.
- 5.5 Subject to Cabinet agreeing the recommendation above, officers would establish the most effective disposal process, and would seek to provide current owners with the opportunity to purchase their freehold, should they wish. Sales will be compliant with current

leasehold legislation.

6.0 Sale of Assets to EHIC (Eastbourne Housing Investment Co Ltd)

- 6.1 EHIC as the asset holding vehicle of the Council recently completed on their first acquisition: 137 – 139 Seaside Road. The lending for this scheme was agreed by Cabinet in July 2015 where a full explanation of the principles of forthcoming acquisitions where lending from the Council was required, were laid out.
- 6.2 EHIC have expressed an interest in acquiring Council housing assets.. The details of the assets concerned are listed in appendix 3 including the expected level of lending required based on current market values. Further options appraisals and project viability will be developed by EHIC prior to a formal application for lending.
- 6.3 This report asks Cabinet to approve a loan to EHIC to enable it to acquire the properties as listed in appendix 3.

7.0 Change to Delegations for Senior Head of Community

- 7.1 Under the Council's current Scheme of Delegations to Officers, the Senior Head of Community does not have delegated authority to dispose of HRA or general fund housing properties of any value. This can lead to delays in disposal while reports are prepared that seek the approval of Cabinet as the executive decision-making body.
- 7.2 To avoid such delays, it is recommended that Cabinet approve the following amendment to the powers granted to the Senior Head of Community under the Council's Scheme of Delegation to Officers. .
- 7.3 The **Senior Head of Community** shall have the following powers in relation to all and any council owned HRA properties:

(a) To acquire or dispose of land, and to grant and/or modify leases, easements, licences and way-leaves of, in, or over such properties, in accordance with the following limits, subject to sub-paragraph (i):

- where the payment **from** the other party does not exceed £50,000 (£25,000 for amenity land); or
- where the payment **to** the other party does not exceed £50,000; or
- where the annual rent does not exceed £25,000 (except for a rent review); or
- where the lease term of the property does not exceed 10 years; or

- if an easement or way-leave, the annual fee does not exceed £1,000.

(i) Where any value exceeds the limits stated above, the Senior Head of Community may exercise the powers referred to in paragraph (a) but only after consulting with the relevant Portfolio Holder.

(b) To vary the terms and conditions of, or negotiate the surrender of, leases and licences.

(c) To determine as landowner or landlord, applications for licences, consents and permissions in respect of properties.

7.4 At the current time, the Secretary of State's permission must be sought where a local authority intends to dispose of more than 5 HRA properties. Again, in the interests of avoiding delay, it is recommended that the Senior Head of Community be given authority, through the Scheme of Delegation to Officers, to make the application for permission to dispose of 5 or more HRA assets direct to the Secretary of State without prior Cabinet approval. Given the likely requirement to sell high value void properties, it is anticipated that the Secretary of State permission to sell will be relaxed.

8.0 Conducting homelessness reviews under Part 7 of the Housing Act 1996

8.1 Where the Council makes a decision under the homelessness legislation an applicant has a right to seek a review of that decision if he/she does not agree with the finding. For complex cases or to ensure decisions can be made in a timely manner some authorities obtain specialist external support to carry out reviews and/or use the services of other Council's that have the required experience and capacity.

8.2 If a Council does use an external agency or other Council to carry out the review there is a requirement for this approach to be approved by the organisation.

8.3 Under normal circumstances the Council would anticipate internal review of cases. However, to give flexibility the report recommends that Cabinet grant delegated authority to the Senior Head of Community to obtain specialist advice for undertaking homelessness decisions and reviews.

9.0 Consultation

9.1 Disposal of HRA & General Fund Housing Stock

Decisions on the disposal of the properties as listed in appendix 3 have been made on the basis of an assessment of their viability and current condition. Where properties have tenants the Council will work closely with the occupants to make sure they are offered appropriate alternative accommodation.

9.2 Disposal of 100% Leaseholder Blocks within the HRA

Should cabinet approve the sale of the leases as detailed in the report a consultation plan will be developed involving current leaseholders affected. It is proposed that this consultation is managed through the EHL Leaseholder Panel. Final agreement will be sought from the Portfolio Holder, Chief Financial Officer and Senior Head of Community and their decision will take into account the outcome of any such consultation.

10.0 Resource Implications

10.1 Financial

The impact of the proposed changes and impact on the HRA are significant. This report is set to address them and ensure we are financially prepared for the future.

10.2 External assistance with homelessness assessment would incur a cost but would be met from within existing budget.

10.3 Staffing

There are no staffing implications from the recommendations in this report. The work will be undertaken from within existing staff resources.

11.0 Supply of Quality Housing for Eastbourne

11.1 The supply of good quality housing impacts on the welfare, housing, crime and educational attainment. This report seeks to ensure the HRA remains sustainable and that the Councils Housing stock is managed in accordance with best practice.

12.0 Legal Implications - Sale of Assets to EHIC (Eastbourne Housing Investment Co Ltd)

12.1 Under Part II the Housing Act 1985 the Council has a duty to consider housing conditions in its district and the needs of the district with

respect to the provision of further housing accommodation. The Council may provide housing accommodation directly but the Housing Act 1985 specifically provides that the Council does not have an obligation itself to acquire or hold any houses or other land for the purposes of its duties as a local housing authority under Part II of the Housing Act 1985.

- 12.2 The Housing Act section 32 enables the Council to dispose of land held for housing purposes subject to the consent of the Secretary of State. The Secretary of State has issued a series of General Consents for the disposal of different types of housing properties. The Council can rely upon Consent A3.1.1, The General Housing Consents 2013 in this case.
- 12.3 The Council has the power to provide financial assistance for the purposes of, or in connection with, the acquisition, of any property which is or is intended to be privately let as housing accommodation. Financial assistance includes a loan. Housing is privately let where the immediate landlord is not a local authority The Secretary of States consent is always required. (Section 24 Local Government Act 1988). The Council can rely upon the General Consent C of section 25 of the Local Government Act 1988 (Local Authority assistance for privately let housing) 2010 in relation to the loan in this instance.
- 12.4 Consent is also required if the Council wishes to provide a gratuitous benefit in relation to privately let housing. Such a benefit is provided where property is disposed of for either no consideration or for a consideration which has a value in money or money's worth which is significantly less than the value, in money or money's worth of the benefit which is to be provided. The intention is to dispose of the housing assets at market value and so no consent is required.
- 12.5 The European Commission's Communication on the Sale of Land sets out an automatic assumption that no State aid is present in a sale of land and buildings, provided its terms are followed. It requires the sale of land for "market value" through (i) an open and unconditional bidding process or (ii) an expert valuation. The price of the housing assets sold will be on the basis of an expert valuation.
- 12.6 The Council may provide the loan to EHIC in compliance with State aid rules on the basis of the Market Economy Investor Principle. This requires an assessment of whether the Council is behaving as a rational entity acting under market economy conditions. It requires a comparison against a hypothetical private sector investor in comparable circumstances to those of the public authority. The intention of the Council is to provide the loan in accordance with this principle.

13.0 Conclusion

- 13.1 We are currently in an environment of rapid and radical changes in national policy and funding arrangements and it is necessary for the council to review its strategies accordingly to ensure we make the best use of our housing stock, capital assets and revenue income.

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Background Papers:

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

- Market valuations for properties to be disposed of
- EHL SLT Report: Disposal of Fully Leasehold Assets - Decision
- HRA 30 year business plan

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