

Report to: Cabinet

Date: 6 February 2019

Title: Housing Delivery Programme

Report of: Ian Fitzpatrick, Director of Regeneration & Planning

Cabinet member: Councillor Alan Shuttleworth

Ward(s): All

Purpose of report: This report sets out:

(1) An update on the Council's capital development within the Housing Revenue Account (HRA).

(2) Proposals for the Council's housing investment partnership through Aspiration Homes LLP (AHLLP) and the Eastbourne Housing Investment Company Ltd (EHICL) to invest in commercial and affordable residential accommodation schemes to assist the Council meets its strategic housing agenda.

Decision type: Key decision

Officer recommendation(s):

(1) To agree that the Council makes a loan facility available of up to £2.5m on market terms to AHLLP for the purpose of enabling the partnership to purchase residential accommodation for affordable purposes under a dedicated programme.

(2) To approve as a Restricted Matter under the LLP Agreement, the making of a loan facility by Lewes District Council of up to £2.5m on market terms to AHLLP for the purpose of enabling the partnership to purchase residential accommodation for affordable purposes under a dedicated programme.

(3) To authorise the Assistant Director for Legal and Democratic Services to ensure that a "Funding Agreement" pursuant to a "Deed of Entrustment" is entered into by AHLLP with the Council so that Right to Buy (RTB) receipts are appropriated in accordance with legislative requirements and the retention agreement with Government in relation to "social housing". To give delegated authority to the Director of Regeneration and Planning to determine the terms of such agreement(s).

(4) To delegate authority to the Chief Finance Officer in consultation with the Lead Cabinet members for Housing and Finance to agree the whole scheme lending parameters for purchases for the programme outlined at recommendation (1).

(5) To delegate to the Chief Finance Officer in consultation with the Lead Cabinet members for Housing and Finance authority to approve any draw down by EHICL from the £20m loan facility approved in the 2017/2021 Capital Programme (to the extent not already committed to other projects) for investment in EHICL's property portfolio, the delivery of new mixed tenure homes and associated activities by EHICL and to delegate authority to the Chief Finance Officer in consultation with the Assistant Director - Legal & Democratic Services to determine the terms of any loan to be offered to EHICL provided always that the Chief Finance Officer is satisfied that:

- a. There will be adequate security for the loan**
- b. There is a viable business case for the loan**
- c. Any such loan is on market terms**

Reasons for recommendations:

(1) To effectively progress land and housing acquisition, investment and larger scale development within the HRA to meet the Council's wider strategic aims and take advantage of new borrowing flexibilities.

(2) To improve access into the private rented sector (PRS) by providing residential accommodation to assist the Council meet its wider strategic housing agenda and increase the variety, availability and accessibility of affordable housing and low cost home ownership.

(3) To generate additional income revenue streams to the Council through strategic property investment.

(4) For AHLLP to use RTB receipts to fund new affordable housing the necessary legal agreements need to be in place to allow this and these must be used in accordance with the terms of our RTB receipt retention agreement.

Contact Officer(s):

**Nathan Thompson
Property Investment and Acquisitions Lead
nathan.thompson@lewes-eastbourne.gov.uk
01323 436422**

1 Introduction

- 1.1 The purpose of this report is to progress the Council's strategic land and housing agenda. In authorising the necessary budgets, appropriate funding and delegation(s) key projects can be progressed to effectively meet the needs of the Council in strategic acquisition and development, both within the Housing Revenue Account (HRA) and through the its asset holding vehicle(s) Aspiration Homes LLP (AHLLP) and the Eastbourne Housing Investment Company Ltd (EHICL).
- 1.2 Governments' change in legislative policy, and the subsequent removal of the 'borrowing cap' in the HRA, means the Council needs to ensure its development pipeline makes best use of this opportunity to the benefit of the existing programme and future schemes. Much success has been achieved through the development of housing through the Council's asset holding vehicles EHICL and AHLLP, which will continue as reflected in the recommendations in this report. The Council wish to now build upon that success utilising every opportunity within their power to achieve the strategic ambition delivering the maximum affordable housing for the town whilst enabling economic growth through commercial initiatives and programmes.

2 Capital development update (HRA)

- 2.1 The Council aims to increase housing delivery and maximise its existing property assets within the town to meet their full use and income generating potential. Utilising borrowing within the HRA will enable more affordable housing to be delivered and also fully utilise Right To Buy (RTB) receipts that the Council would otherwise have to hand back to central Government.
- 2.2 In order to effectively progress land and property purchases as well as larger scale developments within the HRA a dedicated acquisitions and development fund is required. This allows Officers to efficiently progress key sites in a competitive market. Before schemes are developed or purchased a full business case, including detailed financial analysis, will be presented to Senior Officers before proceeding. This will ensure that any decision(s) taken are subject to effective due diligence and governance.

3 Housing investment – EHICL & AHLLP

- 3.1 Cabinet previously approved the establishment of a joint housing investment partnership (JHIP) with Lewes District Council (LDC) to progress on affordable housing development.
- 3.2 In June 2017 Aspiration Homes LLP (AHLLP) was incorporated. Since that time a number of schemes are now progressing with the first to be constructed in AHLLP, Northbourne Road, currently on site.
- 3.3 Cabinet previously approved the following (remaining) loan facilities to the respective asset holding vehicles:

To deliver private market housing;

- EHICL: Larger commercial schemes - £20m
- EHICL: Residential street acquisitions - £10m

To deliver affordable homes of all tenures;

- AHLLP: Larger affordable schemes - £10m

3.4 The loan facility granted to AHLLP is allocated to larger affordable schemes. Although those schemes are crucial to the wider programme, it is a competitive market and AHLLP requires the ability to capitalise on the opportunities of the local property market through the acquisition of readily available street properties.

3.5 The purchase of suitable residential properties by AHLLP through a dedicated street acquisitions programme for affordable rent and low cost home ownership will help assist households to secure accommodation within the private rented sector (PRS) relative to need. It will also help reduce costs to the Council's housing team by providing throughput to suitable accommodation. The same programme through EHICL, delivering market rent properties, has been successful with around 30 properties now held in the portfolio.

3.6 Housing provided by AHLLP will assist the Council to meet its wider economic and regeneration aims by intervening in the affordable housing market. The properties will be well managed and kept in good condition.

3.7 The property market is however very competitive and, at times, fast paced. Without the flexibility to progress schemes using the approved loan facilities in place AHLLP are at risk of missing out on key opportunities.

3.8 To ensure purchases under a dedicated programme are consistent and in-line with the Council's wider strategic objectives the following core principles are proposed:

- Although the principle aim is to provide additional housing to address local need, the partnership should not make overall losses
- Not to purchase multiple properties within a single concentrated area to reduce any potential negative impact upon that area and its residents
- To maintain a 'social conscience' when considering acquisitions
- To wherever possible ensure the letting of properties acquired through AHLLP are within local housing allowance rates (LHA) and affordable rents up to 80% of the market, unless in the case of specialist accommodation which may attract a different rental model
- Ensure regular monitoring and review of the process is demonstrated to ensure it is working for real people and driving the project(s) forward

3.9 The following assumptions will be made for each financial appraisal when establishing viability:

- To model acquisitions with all capital costs assumed in Year 1
- Long term interest rate at 4.5%
- Management fee allowance of £250 per unit per annum
- Maintenance allowance of £450 per unit per annum
- Two week void and bad debt allowance at £300 per unit per annum
- Reserve fund allowance of £400 per unit per annum as standard. Subject to actual figures this may be changed for improved accuracy
- Service charge allowance (for long leasehold flats)

3.10 The assumptions will be flexible and regularly reviewed to appropriately adapt to the built environment, the property market and EBC as lender.

3.11 The table below demonstrates the appraisal model and general process::

AHLLP: Affordable rent investment 2 bedroom long-leasehold flat	
Purchase price	£140,000
Purchase costs and works (SDLT, legal fees, valuation etc.)	£7,000
30% funding from RTB receipts	-£44,100
Total purchase costs	£102,900
Interest on loan @ 4.5%	£4,630
Management / maintenance	£1,000
Voids and bad debts	£300
Reserve fund	£400
Total annual costs	£6,330
Total annual rent (80% MR)	-£7,200
Annual surplus	-£870

3.12 Using the above example AHLLP would make a surplus of £870 per annum on the purchase after the assumed costs, generate an increase in capital asset value and add to the increase in affordable housing.

3.13 With a loan facility of £2.5m (in accordance with the AHLLP 3 year business

plan), as well as the use of RTB receipts to fund 30% of the capital costs in the programme, it is anticipated that another 10-15 properties could be acquired and let at either affordable rents (up to 80% of the market) or sold as low cost home ownership (subject to compliance with RTB retention agreement).

- 3.13 The report also seeks to allow EHICL more effective access to the budget of £20m already agreed by Cabinet delegating authority to the Chief Finance Officer and Assistant Director for Legal & Democratic Services to sign off loans based on a set of principles set out in the recommendation. Much like acquiring land or properties in the HRA and AHLLP, EHICL are working in a highly competitive market and need the ability to complete sale transactions as efficiently as possible as part of its success in obtaining the best value for the Council. Moreover EHICL's portfolio has grown and its business plan matured in its approach to asset management and long term investment to therefore ensure it remains a well functioning business.

4 Staffing and resource

- 4.1 There are no specific staff implications. The acquisition and future management of property will be within current resources. A fee is built into the financial modelling to meet the management costs.

5 Environmental, Community Safety, Human Rights, Youth, Anti-Poverty

- 5.1 The acquisition of properties will give the Council greater ability to deliver its wider role of community wellbeing and promote a supply of good quality well managed accommodation.
- 5.2 It will help address the low wage economy and the wider economy by encouraging investment in new businesses, homes and the environment.
- 5.3 It will also help to address areas of identified hardship, resolved as a result of the Council's considered and strategic intervention.

6 Financial appraisal

- 6.1 The Council can make long term loans to AHLLP enabling it to fund acquisitions and on-costs. A Funding Agreement with AHLLP is already in place setting out the core principles of any loan. It is recommended that the terms of any loan offered would be determined by the Chief Finance Officer in consultation with the Lead Member for Finance. A range of factors would be considered including the duration of the loan and market interest rates at the time of the loan advance. Any loan would be secured against the property assets of AHLLP.
- 6.2 Interest paid to the Council by the partnership would be credited to the General Fund. The Council will need to borrow to cover these loans and any such borrowing will be undertaken in line with the Council's Treasury Management Strategy. The cost of servicing this new General Fund borrowing would be less than the interest payments received from AHLLP, generating a net income stream for the Council.

- 6.3 Retained RTB receipts: under an agreement with the Government, the Council has retained a share of the receipts generated under RTB on condition that the amounts retained are used within a rolling three year period to part-fund the development and (currently) the acquisition of new affordable housing. Retained receipts used in this way must not exceed 30% of the capital costs. Any retained receipts not used within three years must be paid to the Government (with interest).
- 6.4 The agreement with the Government allows the Council to pass the retained receipts to another body for use in the development of affordable homes. Through this mechanism the Council could make a grant to AHLLP (a condition within the Government agreement precludes a grant payment to EHICL).
- 6.5 Robust financial appraisals in respect of the individual asset purchases, the management of ongoing expenditure and the continuous monitoring of the demand for housing need is essential to mitigate costs, voids and both capital / revenue losses.

7 Legal implications

7.1 Loans to EHICL and AHLLP

The Council could use the general power of competence in section 1 of the Localism Act 2011 for the proposals in this report. However the exercise of that power would be subject to the limitations and restrictions of the legislation set out below.

Under sections 24/25 Local Government Act 1988 the Council, with the Secretary of State's ("SOS") consent, can provide any person with financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance or management (whether by that person or by another) of any property which is or is intended to be privately let as housing accommodation. Financial assistance specifically includes the provision of loans or grants. The General Consent C issued by the SOS under section 25 of the Local Government Act 1988 (Local Authority assistance for privately let housing) 2010 enables the Council to provide a loan or a grant to AHLLP or LHICL for these purposes.

7.2 Capital finance considerations

The Council has the power under section 1 of the Local Government Act 2003 (LGA 2003) to borrow for any purpose relevant to its functions under any enactment or for the purposes of the prudent management of its financial affairs.

The Council has the power under section 12 of the LGA 2003 to invest for any purpose relevant to its functions under any enactment or for the purposes of the prudent management of its financial affairs.

Under section 3 the SOS may make regulations governing the use of the borrowing power and section 15 of the LGA 2003 requires a local authority must

“have regard to” such guidance as the SOS may issue and to such other guidance as the SOS may by Regulations specify.

The SOS has made the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, S.I 2003/3146, as amended (“the Capital Finance Regulations”) in relation to the exercise of the borrowing power. Paragraph 24 of the Capital Finance Regulations provides that a local authority “must have regard to” the document entitled “Treasury Management in the Public Service: Code of Practice and Cross-Sectoral Guidance Notes” published by the Chartered Institute of Public Finance and Accountancy (“CIPFA”) as may be amended or reissued from time to time. CIPFA has duly issued Treasury Management Guidance.

The SOS has also issued statutory guidance on local government investments (3rd edition) effective from 1st April 2018. This is primarily about investments made under section 12 LGA 2003 but also relates to borrowing for investments. The SOS view is that an investment includes covers loans made by a local authority to one of its wholly-owned companies or entities.

7.3 State Aid

The provision of loan funding or other forms of assistance to AHLLP and EHICL will be State Aid compliant if in accordance with general market terms known as the Market Economy Operator Principle (“MEOP”) i.e. that a private investor of a comparable size operating in normal conditions of a market economy could have been prompted to make the investment on the terms that have been agreed.

It is possible for the council to provide grants, loan funding or other assistance which is not on market terms provided that it complies with the European Commissions Service of General Economic Interest Decision of 20 December 2011 (“SGEI”). SGEI enables state subsidy in relation to “social housing” (which includes affordable housing in England) provided the requirements set out in that decision are met.

7.4 Use of RTB Receipts

RTB receipts will be passed to AHLLP under the SGEI Decision. It is the intention to provide AHLLP funding using SGEI. An overarching Deed of Entrustment between AHLLP and the Council will be used to govern any assistance the Council may provide to AHLLP for its provision of affordable housing and ensure compliance with SGEI where such assistance is not under the MEOP. In addition each scheme will require AHLLP and the Council to enter into a specific funding agreement for SGEI purposes and also where RTB receipts are being utilised to ensure that the receipts are used in accordance with the legislation, the Council’s agreement with the SOS and for the purposes that they are intended.

7.5 In the same way that the Council has to resolve to make a loan, then EHICL and AHLLP, as separate legal entities and acting through either its Board of Directors or Executive Committee, will need to resolve to take the loan and to use it to purchase properties. In the case of AHLLP the loan will be classed as

an Additional Loan which will require the agreement of both Members. There will need to be a loan agreement between the Council and the company / partnership formalising the terms of the advance and repayment of funds.

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8 Risk management implications

- 8.1 Under this proposal the Council would lend funds to purchase properties within set parameters to be defined by the Council as set out with the report recommendation(s).
- 8.2 The Council's key risk(s) relates to the partnerships' ability to meet the loan payments. Each loan provided to AHLLP will have a legal charge in LDC's benefit in the event of any default.
- 8.3 The key risks for the partnership includes:
- i) Effective rent collection
 - ii) The ability to efficiently let properties
 - iii) The general management operating within the viability assumptions – i.e. repairs levels, voids, bad debts and management costs (as assumed)
- 8.4 Each property or land purchase will be subject to an appraisal and red book valuation and a full survey to ensure the Council is obtaining value for money, in addition to fulfilling its wider strategic objectives. The legal risks will be assessed as the project progresses as part of the due diligence process.

9 Equality analysis

- 9.1 The provision of diverse, good quality and well-managed housing, with a mix of tenure and affordability, helps meet the needs of the wider community.
- 9.2 An increase in available and accessible affordable housing allows the Council to provide assistance to those most in need within our community.

10 Appendices

- 10.1 None.

11 Background papers

- 11.1 None.