

**HOUSING AND NEW HOMES
COMMITTEE/ POLICY, RESOURCES
AND GROWTH COMMITTEE**

Agenda Item 9

Brighton & Hove City Council

Subject:	New Homes for Neighbourhoods – Scheme Approval - Lynchet Close		
Date of Meeting:	28 June 2017 – Housing and New Homes Committee		
	13 July 2017 – Policy, Resources and Growth Committee		
Report of:	Executive Director Economy, Environment and Culture		
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Ward(s) affected:	Hollingdean & Stanmer		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 In September 2012, Housing Committee agreed the procurement of initial feasibility and design of identified case studies for housing opportunities on appropriate Housing Revenue Account (HRA) land, including stakeholder engagement and consultation. Since then, the Estate Regeneration Team was created and has commissioned business cases for potential infill sites to establish the financial viability and design feasibility of developing new council homes on these sites. With committee approval, the new homes have then been built under the council's New Homes for Neighbourhoods programme.
- 1.2 This report includes the findings of the business case for eight new council homes for rent at a primarily HRA owned, grassed site at Lynchet Close, Hollingdean and seeks scheme and budget approval to develop them. The implications of various rent options, including those requested in members' proposed amendment to the report circulated for the March Housing and New Homes Committee meeting, are included in order for Housing and New Homes Committee to agree the rent levels. This report also requests approval to appropriate a small strip of land from the council's Environmental Services department to the HRA in order to let the development proceed.

2. RECOMMENDATIONS:

- 2.1 That Housing and New Homes Committee approves:
- i. The proposed scheme of eight new council homes at Lynchet Close, Brighton under the New Homes for Neighbourhoods programme;

- ii. One option of either Option 1 or Option 2 of the six options for scheme rent levels as set out in Appendix 3 to the report, as follows:

Option 1: All homes at Local Housing Allowance (LHA) levels of Housing Benefit or 80% market levels if lower, in accordance with rent policy for the New Homes for Neighbourhoods programme to date

Option 2: 65% Market Rate for the four bedroom houses and LHA rate for the two bedroom flats.

2.2 That Housing and New Homes Committee recommends to Policy, Resources and Growth Committee to:

- i. Approve that the Environmental Services land marked with hatching in Appendix 1 be appropriated to the Housing Revenue Account for a nil capital receipt for planning purposes to enable the whole vacant Lynchet Close site to be developed for new council housing;
- ii. Approve a budget of £2.532m for the Lynchet Close scheme in the HRA Capital Programme which will be financed through a mixture of HRA borrowing and retained Right to Buy capital receipts.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Building new homes on council land is a council priority and essential if City Plan housing targets are to be met and the city's 'housing crisis' tackled. Increasing the supply of housing is a primary objective in the council's Housing Strategy 2015. The strategy identifies the lack of new affordable rented housing as a key issue for the city, and specifically the need for family homes. The council's New Homes for Neighbourhoods programme addresses this undersupply by developing new homes on suitable council owned sites across the city in order to meet City Plan targets and housing need. To date, 34 council homes for affordable rent have been completed under the New Homes for Neighbourhoods programme, 131 are on site and will be completed in this financial year, another 12 have planning permission and over 100 more are in the pipeline.

The site

- 3.2 The site is a gently sloping, grassed open space on the south side of Lynchet Close directly opposite Hollingdean Park and children's playground and access to allotments, a sports ground, open countryside and South Downs National Park. A three storey block of council flats, 10 – 20 Brentwood Road, Brighton BN1 7EQ, lies to the west of the site and the Cedar Centre school to the east. The scheme would not encroach on the communal rear grounds of 10 – 20 Brentwood Road or the public footpath that runs the length of the eastern boundary of the site between it and the Cedar Centre. The frontage of the site is owned by the council's Environmental Services department, but the bulk of the land (83%) is HRA owned. A plan at Appendix 1 identifies the whole site to be developed and the Environmental Services strip (hatched) which it is

recommended be appropriated to the HRA in order to enable the HRA to develop the whole vacant site for new council homes.

Proposed new homes and construction

- 3.3 Design proposals are for a terrace of six four bedroom, seven person town houses on two and a half storeys and two two bedroom, four person flats, each with its own private garden. A design study is at Appendix 2. The council's Housing department prioritised large family homes for this site as there is a particular need for large, affordable rented homes in the city and in Hollingdean, and the site is well located for children being very close to schools, Hollingdean Children's Centre and the park and playground.
- 3.4 All homes follow the Nationally Described Space Standard as specified in the council's Affordable Housing Brief. All would also achieve the Building Regulations standard for 'accessible and adaptable' housing (Part M4(2)) which replaced Lifetime Homes Standard, apart from the upper flat being reached by an internal staircase as it is uneconomic to provide a lift for only one flat. In order to achieve speedy and cost effective development, the homes would be constructed with a timber frame and plastic pipes and allow for tenants to lay their own carpets or other flooring in the bedrooms and stairwells of the houses.
- 3.5 Being designed for large families, the houses would have a shower in the downstairs cloakroom as well as a bath with overhead shower in the first floor bathroom. The ground floor flat would have a level access shower instead of a bath in order to be suitable for letting to applicants unable to manage steps/stairs/steep gradients and who may require a wheelchair for outdoor mobility. Six off street parking spaces are provided in front of the six houses for their use. There is also unrestricted street parking in Lynchet Close in front of the flats.

Planning advice

- 3.6 Planning pre-application advice was provided on the initial design in January 2017. Planning's opinion was that a development of this scale and general form could be accommodated on this site without significant harm to the visual and neighbouring amenity, subject to appropriate revisions to the design and siting in addition to a justification for the loss of open space. Design and siting revisions in line with planning pre-application advice were carried out prior to a local resident and stakeholder consultation event and are incorporated in the design study at Appendix 2. An application for planning consent was submitted on 29 March 2017 and a decision is expected in June.
- 3.7 The site is underused open space immediately opposite Hollingdean Park and playground and access to a sports ground, allotments and open countryside in South Downs National Park. There are many grassed open space areas around other council homes on the estate. Local residents have commented that the site is not currently played on by children. A case has therefore been made for loss of open space in this specific location.
- 3.8 If the scheme is approved for planning consent, there is likely to be a s.106 planning agreement to replace play equipment for children and young people in Hollingdean playground in order to mitigate for the loss of open space. Over 30 children might live in the new housing scheme at any one time, so council

tenants would benefit directly from these improvements to the playground immediately opposite the development. Provision for a planning contribution has been added to the scheme development costs and the communal grounds around the homes will also include planting to enhance the public domain.

Appropriation of part of the proposed site to the HRA

- 3.9 Although the main parcel of the proposed development site is owned by the HRA, a triangular strip along the pavement at the front of the site is historically owned by the council's Environmental Services department in the council's General Fund. This comprises 258 square metres (17%) out of the total site area of 1,518 square metres (as shown in Appendix 1). Appropriation of this strip of land to the HRA is required to enable the HRA to develop the site.
- 3.10 The council's Property Estates Team have undertaken a valuation of the strip of land and confirmed it can be appropriated to the HRA for this purpose at nil value. As it is classified as open space and above 250 square yards in area, the council has had to follow a further consultation procedure under s122 Local Government Act 1972 before the appropriation can be approved. The council gave notice of its intention to appropriate the land in an advertisement in the Brighton Argus for two consecutive weeks on 12 and 19 May 2017 and must consider any objections to the proposed appropriation which may be made to it. No objections or other representations had been received by the closing date of 2 June 2017.

Funding proposals

- 3.11 Financial modelling has been undertaken on the proposed design. Estimated total development cost for the scheme (including architects and specialist fees, surveys, s106 contributions, Building Regs and Planning fees etc. as well as construction costs) is now £2.532m as Planning have indicated they will accept lower s106 planning contributions including for loss of open space than previously allowed for. Right to Buy receipts will be used to fund up to 30% of the development cost. The balance could be funded by borrowing supported by the net rental income generated from the new homes.
- 3.12 In order to explore potential to minimise development costs for Lynchet Close three construction options were drawn up and costed for at an early stage of design. The cross party Estate Regeneration Member Board, comprising the Chair of Housing & New Homes, the Opposition Housing Spokesperson and Minority Party Spokesperson, were consulted on these in January 2017. They concurred with the decision to use timber frame rather than traditional block and brick construction – which brought some cost savings – and to comply with the space and accessibility standards required by the council's Affordable Housing Brief, rather than the lower standards generally delivered by volume house builders. Construction costs for this option were advised by the construction partnership's cost consultant to be broadly in line with a small private development and housing associations' costs at that time.
- 3.13 Value engineering has been carried out throughout the design phase to ensure value for money and to minimise costs whilst still meeting the council's required standards. Some potential further small savings on scheme costs have been

identified that could reduce them further have been identified, subject to planning agreement for external works

- 3.14 This scheme is projected to make a surplus for the HRA of up to £1.373 million over 40 years. It should not require HRA subsidy as it is a relatively straight forward site to develop, being open space with minimal site constraints compared to other HRA sites and requiring no demolition, lifts or internal communal areas. Timber frame construction is also proposed to achieve some cost savings. Surpluses from this scheme would offset HRA subsidy requirements for the other council housing schemes in the New Homes for Neighbourhoods programme and/or fund the development of more new council housing in the future.

Rent policy for new build homes

- 3.15 Housing and New Homes Committee and its predecessor Housing Committee have to date set Affordable Rents for new build council homes in the New Homes for Neighbourhoods programme at the lower of 80% market rent or Local Housing Allowance rates, in accordance with the council's Tenancy Strategy. This followed analysis in a report to Housing Committee introducing the New Homes for Neighbourhoods estate regeneration programme in March 2013 that indicated the council could build five and a half new homes for Affordable Rent for every one new home at Target Rent.
- 3.16 There was evidence of tenant support for higher rents for new homes. At the City Assembly of council tenants and leaseholders in November 2012, the most popular means of making efficiencies to reinvest in existing and new homes that residents identified included increasing rents for new homes.
- 3.17 It was also recognised that the impact of higher rents than in older stock can be offset by lower energy costs from new homes built to high sustainability and fuel efficiency standards, including communal boiler systems in larger blocks. A Darwell Court tenant reported in the recent survey of their satisfaction with their new home that their energy bills have halved since their move to a New Homes for Neighbourhoods home. Barratt Homes calculate that a household moving from an uninsulated pre-1919 four bedroom terraced house to one of their new homes of the same size with double glazing and a modern boiler and could save £700 a year on energy bills. They say their homes are up to 55% more energy efficient than a similar sized older home, even after it has been modernised. The NHBC Foundation's 2016 guide 'The advantages of new homes' estimates a cost saving of £1,410 per annum in a detached four bedroom home built to 2013 Building Regulations compared to a Victorian home with some modern day improvements, a 57% saving. At the Code for Sustainable Homes Level 4 equivalent standards required in Brighton & Hove, the energy bills should be even lower.
- 3.18 The cost of building new homes varies by location depending on site specific costs, which for the New Homes for Neighbourhoods programme often include demolition of unused garages or offices, diversion of sewers or other utilities, dealing with contaminated land and extensive ground works on sloping sites. Unit costs also vary by size of site due to economies of scale and the programme is developing sites of various sizes from two to 57 homes, though mostly smaller sites.

- 3.19 Adopting Affordable Rents for each new build council home as defined in the council's Tenancy Strategy ensures tenants would pay the same rent for a new two bedroom home, for example, regardless of whether it is in a scheme that happens to be relatively more or less costly to develop. That can be argued to be fair and equitable to tenants. A consistent approach to decision making on rent levels by Housing and New Homes Committee also minimises the risk of future challenge.
- 3.20 The Homes and Communities Agency (HCA) approves rent levels for council funded new build schemes in order for Housing Benefit to be payable. It must confirm that the ratio of additional income to anticipated new supply for the scheme represents value for money. To date for the programme the HCA has accepted rents set at LHA rates as reasonable given the extremely high housing costs in Brighton, although it would ordinarily expect rent levels to take advantage of the full 80% of market rent levels that are available.

Rent options for Lynchet Close

- 3.21 The six houses at Lynchet Close would be the first four bedroom homes developed under the New Homes for Neighbourhoods programme. The homes could all be let for Affordable Rent at the lower of 80% market rent or Local Housing Allowance (LHA) rate in accordance with the council's Tenancy Strategy, as with other homes in the programme. However, members of the Estate Regeneration Member Board asked for different rent options to be presented for these as the LHA rate for a four bedroom home at £339.34 per week is not far off the current Benefit Cap for parents or couples of £384.62 per week (£20,000 per annum).
- 3.22 Tenants would not be affected by the government's Benefit Cap if they or their partner works and either of the following apply:
- the tenant or their partner is eligible for Working Tax Credit
 - the tenant or their partner gets Universal Credit, and their household income is more than £520 a month after tax and National Insurance.
- If tenants were employed continuously for 12 months and lost their job through no fault of their own, the Benefit Cap would not apply for the first 39 weeks. Tenants would also be exempt from the cap if they are entitled to disability or carer allowances or war widow(er)'s pension or are of pensionable age. All council tenants who are affected by the Benefit Cap are provided with intensive and tailored support. Tenants are visited at home by a trained officer who can help them into work or support them to apply for exempting benefits, in regards to any health, disability or caring requirements. In addition, all affected tenants are offered a referral to Money Advice Plus for help with budgeting, banking, debts, nutrition and heating.
- 3.23 The council's Objectively Assessed Need for Housing: Brighton & Hove 2015 report showed that the median annual income of all households in the city was estimated to be around £29,100 with a mean income of £38,300 at that time. Eligible households for a four bedroom home on the Homemove register can have an income up to £60,000 per annum under the Allocations Policy 2016. The council will devise a local lettings plan for this scheme and will include an

affordability assessment to ensure that prospective tenants will be able to meet the rental liability.

- 3.24 Seven rent options are set out in Appendix 3 with their implications for the HRA and tenants. Actual rent figures will be set according to the rates or valuation prevailing close to letting of the homes. Options 1 to 3 would set rents for four bedroom houses above the rents payable for smaller new build homes, and continue to set rents for two bedroom homes on the same basis as all other new build two bedroom homes.
- 3.25 Option 1 would be consistent with rent policy for all other new build homes in the New Homes for Neighbourhoods programme to date and be most economically advantageous to the HRA, delivering an estimated surplus of £1.373m to the HRA over 40 years. This would cross subsidise other schemes already in the programme and/or fund the development of more new council housing in the future programme. By way of illustration, the projected surplus is more than the cost of the five new council homes at Darwell Court.
- 3.26 Option 2 would allow a greater difference between weekly rent and Benefit Cap for any household in the four bedroom houses entirely dependent on benefits and reduce the projected surplus available to subsidise other council housing to £0.894m. The two bedroom flats would be let at the same rate as other two bedroom homes in the New Homes for Neighbourhoods programme
- 3.27 Option 3 would reduce the surplus again, this time to £0.420m. The rent for the four bedroom houses would be just £3.56 per week more than the LHA rate for three bedroom flats and houses already in the New Homes for Neighbourhoods programme. So a household in a 4 bedroom, 7 person house with garden and a parking space at Lynchet Close would pay £3.56 per week more than a family in a 3 bedroom, 5 person flat at Kite Place. Rents for the two bedroom flats would be calculated on the same basis at each scheme.
- 3.28 Options 4 to 6 would set rents at Lynchet Close lower than those already agreed and payable for smaller new build council homes.
- 3.29 Option 4 would bring rents for four bedroom houses below the weekly LHA rate charged on three bedroom flats and houses in the New Homes for Neighbourhoods programme. So a household in a 4 bedroom, 7 person house with garden and a parking space at Lynchet Close would pay £11.05 per week less than a family in a 3 bedroom, 5 person flat at Kite Place. Tenants in a two bedroom flat at Lynchet Close would pay £28.06 per week less than those in a two bedroom flat at Kite Place. This could risk a charge of unfairness and inconsistency and a challenge on grounds of unreasonableness. The projected scheme surplus would reduce to only £0.203m to cross subsidise the rest of the programme.
- 3.30 Option 4a provides a slight alternative to option 4. The 4 bed houses under this proposal would remain at the same rent level as in option 4 with the implications outlined in paragraph 3.29 still applying. However this option proposes to keep the 2 bed flats rents at LHA levels, meaning they would be in line with other 2 bed flats already being built. The surplus would increase from option 4 to £0.288m.

- 3.31 Option 5, at even lower rents, would bring rents for both the four bedroom houses and two bedroom flats below the rents already charged for smaller new build council homes, exacerbating further the potential for challenge on the grounds of unreasonableness. A household in a 4 bedroom, 7 person house with garden and a parking space at Lynchet Close would pay £24.28 less per week than a family in a 3 bedroom, 5 person flat at Kite Place. Tenants in a two bedroom flat at Lynchet Close would pay £56.48 less per week than those in a two bedroom flat at Kite Place, and £17.02 less than someone in a one bedroom flat at Kite Place. This option would produce no surplus to cross subsidise the rest of the programme nor any leeway if costs were to increase unexpectedly.
- 3.32 Option 6 at social Target Rent demonstrates that £1,023m HRA subsidy would be required to charge rents on the same basis as for re-lets on older stock.

Need and demand for four bedroom affordable rented homes

- 3.33 Evidence of need and demand indicates that the six four bedroom homes would not be hard to let at LHA rates to households in housing need. The average price of a four bedroom home for sale in the city in Quarter 4 2016 was nearly 20 times median income. The council's Private Sector Rent and Local Housing Allowance Comparison Report found only 4% of four bedroom properties (three out of 78) advertised for letting in Brighton & Hove at rightmove.co.uk on 26 May 2017 were within the LHA Rate, 95% were over £100 per month more than that and 31% were student lets.
- 3.34 74% of households affected by the Benefit Cap in March were in private sector or temporary accommodation properties. Those not already in cheaper council or housing association homes would see an improvement in their financial circumstances if they became council tenants at LHA rates.
- 3.35 144 households assessed as requiring a four bedroom home were on the Homemove register at 18 May 2017. Records also showed there were 34 households with six or seven occupants living in two or three bedroom council homes and not claiming Housing Benefit. These existing council tenants could be eligible to transfer to four bedroom homes and not be fully dependent on benefits or affected by the Benefit Cap.

Sustainable Futures strategic construction partnership

- 3.36 If Housing and New Homes Committee agrees to progress this proposed scheme at its 28 June meeting, construction and development will be undertaken by the council's in-house architecture and design team and the existing corporate Sustainable Futures strategic construction partnership. The partnership was procured under an OJEU procurement process authorised by Policy and Resources Committee on 21 March 2013, following two previously successful construction partnerships. The partnership started in early 2014 for a contract term of four years and to a value of £60 million. It is currently delivering the majority of the New Homes for Neighbourhoods homes as well as construction projects for various council client departments and is managed by the council's Property & Design department.

- 3.37 The quality of homes delivered by the partnership has been very high and development of the homes after Committee approval has proved much quicker than other delivery routes as the architects are in-house and the constructor, partner surveyors and some sub-contractors are already procured. Building on their expertise and experience from the housing schemes already being developed by the partnership, in-house architects and partners have worked up the design for Lynchet Close from inception to an advanced stage, including modelling different construction options and costings on which the cross party Estate Regeneration Member Board were consulted. The early involvement of constructors and electrical, structural and mechanical and engineering partners ensures that final design and construction risks are minimised and that new homes will meet Housing's requirements. Throughout the design process prices for each element are obtained and reviewed by the team and if necessary the design is amended to ensure that the budget is met.
- 3.38 The design team, including the Estate Regeneration Project Manager, meet every four weeks and will work together within the assigned budget to set the Agreed Maximum Price, after which the Quantity Surveyor will produce a review document for audit purposes which demonstrates that the project has achieved best value. This document benchmarks the square metre rates against previous partnered and non-partnered schemes and also against national construction rates for housing. An independent partnering advisor is employed and a Core Group meets monthly to oversee the arrangements and takes a strategic view of each scheme, ensuring that key deadlines are met.

Next Steps

- 3.39 If Housing and New Homes and Policy, Resources and Growth Committees approve the scheme, scheme budget and appropriation of Environmental Services land, the council's in-house architecture team and strategic partnership expect work to start on site early this autumn (subject to planning). Construction is expected to take around nine months. Regular updates on progress will be provided to the cross-party Estate Regeneration Project Board and through New Homes for Neighbourhoods Updates.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The council's Housing department considered the cost and benefits of developing flats or houses on this HRA site and prioritised large family houses, of which there is a shortage in the city and within Hollingdean. This location is well suited for families, being very near the Children's Centre and schools as well as Hollingdean Park and playground. It is proposed that all homes be let within affordable rent levels to applicants from the Homemove register to help meet the city's great housing needs. The local community has generally warmly welcomed that.
- 4.2 Rent options for the scheme have been modelled for Housing and New Homes Committee's review in Appendix 3.

- 4.3 Incorporation of the Environmental Services strip of land into the development site is necessary to maximise the number of homes in this proposed scheme and there are no alternative suggested uses for it.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The Estate Regeneration Team prioritise engagement and consultation with local ward councillors, council tenant and resident associations and local residents in the neighbourhood of each site handed over to the team for development under the New Homes for Neighbourhoods programme. Local ward councillors have been consulted on the proposal and updated on progress. Two have expressed their support for the proposal. The Estate Regeneration Member Board has also had regular updates on progress with this proposal.
- 5.2 The Estate Regeneration Project Manager met with the recently re-formed Hollingdean Tenants Association, the Community Development Worker and a local ward councillor on 30 November 2016 to share early plans for the proposed development. She also attended the Hollingdean Tenants Association meeting on 14 March with the consultation plans. Members supported these and are being kept updated on progress.
- 5.3 Residents and stakeholders neighbouring or in view of the site were invited by letter to a drop-in consultation event held at the Hollingdean Children's Centre on 20 February 2017 between 3pm and 6pm. The centre is across the road from the site and immediately adjacent to Hollingdean Park and playground. Posters in and around the centre and in a message board in front of 10-20 Brentwood Road publicised the consultation event with an image of the proposed new homes. Users of the centre during the event were also invited to look at the plans and give their views, orally or in a feedback form. Information sheets and feedback forms were available at the centre during and after the consultation event.
- 5.4 Only one couple of the residents spoken to during the drop in event or completing a feedback form opposed the proposals, concerned they would lose their sea view and parking would increase. The others welcomed the proposed scheme. Seven completed feedback forms were received, all of which support the development of new council homes on the site. Comments include: "Look[s] like a great use of underused space. Need for larger houses for families in Hollingdean is high" and "The grass area is not currently played on by children as the park is across the road". The only concerns or issues raised were that the homes should be let to the right tenants and that the development would have an impact on the on-street parking for local people/workers. However, six off-street parking spaces have been provided within the scheme to minimise impact on the local, unrestricted street parking.
- 5.5 A Lynchet Close resident emailed an objection to the plans on 12 March 2017 challenging the need for four bedroom houses and urging the council to refocus its priorities to helping local young people, and building on brown field spaces. The plans for the scheme have also been publicised locally in the May 2017 edition of Hollingdean News distributed to all households in BN1 7 and on its website. Updates will also be submitted for future editions.

- 5.6 Further community consultation on appropriation of the strip of open space Environmental Services land to the HRA as required by s.122 Local Government Act 1972 has been carried out with regard to appropriating the Environmental Services land. The council gave notice of its intention to appropriate the land in an advertisement in the Brighton Argus for two consecutive weeks on 12 and 19 May 2017. The council must consider any objections to the proposed appropriation. No objections or representations had been received by the deadline of 2 June 2017.

6. CONCLUSION

- 6.1 This proposal will deliver six large family homes and two flats for the council to let within affordable rent levels to applicants from the Homemove register. This fits with the council's Housing Strategy 2015 objectives to increase housing supply and prioritise support for new housing development that delivers a housing mix the city needs, with a particular emphasis on family and affordable rent housing. This scheme will also help achieve the council's aim to deliver at least 500 new homes on council land under the New Homes for Neighbourhoods programme.
- 6.2 The development of this scheme in this location can, exceptionally, deliver a significant surplus to the HRA over forty years despite it being 100% affordable rent. This surplus could cross subsidise development of other new council homes within the current or future programme, depending on the rent level agreed. There is need and demand for the four bedroom houses from households in housing need and rents set at LHA rates would maximise return to the HRA.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The financial viability modelling sets out to show whether a given scheme can pay for itself by using the new rental stream only (net of service charges and management and maintenance costs) over 40 years to pay for the principal and interest on the borrowing required to fund the development. It also assumes that 30% of the development costs are met from retained Right to Buy (RTB) Receipts. If the rental stream and RTB receipts are insufficient to meet the costs, then a subsidy is required by the HRA.
- 7.2 The report proposes the development of 8 new homes at Lynchet Close, Brighton. The estimated total scheme cost for this development is £2.532m, for which budget approval is being sought as per paragraph 2.2 of the main report. This sum will be added to the main HRA Capital Programme for 2017/18. Under the RTB agreement the council is permitted to fund 30% of the development costs from our retained RTB receipts, this totals £0.760m. The remaining £1.772m would be funded through borrowing supported by the new rental income.
- 7.3 Seven options for the rent levels have been modelled and the detailed financial implications for each of the options are included in the main body of the report and in Appendix 3.

- 7.4 The report recommends either option 1 or 2 to be taken forward. Option 1 provides the greatest return to the HRA over a 40 year period, whilst option 2 still provides a return to the HRA, albeit at a lower level.
- 7.5 The projected surplus of each option outlined options 1-4a in Appendix 3 would offset the subsidy requirements for some of the other council housing schemes in the New Homes for Neighbourhoods programme. Higher rents would allow the HRA more funds to either invest in current tenants' homes or use for building much needed affordable housing.
- 7.6 An independent valuation will be undertaken nearer the completion of the units to assess their market rental value, the cost of which will be met by the agreed scheme budget. The result of this valuation could impact the rental figures detailed in Appendix 3 as they are currently based on assumptions made about the market value of similar properties in the surrounding area.
- 7.7 The current financial modelling has used the rates and assumptions outlined in the current strategic partnership agreement, these would be subject to change if the scheme was not taken forward under this current agreement.
- 7.8 There is a small strip of land to the front of the site (approximately 17% of the whole site) which is owned by the General Fund and would require appropriation to the HRA in order for the site to be developed. The council's Property Estates Team have carried out a valuation on the site and determined that the site has a nil value for this purpose and so has no impact on the total scheme costs. Further work is required before the land can be appropriated as set out in paragraphs 3.9 and 3.10 of the main report.

*Finance Officer Consulted: Monica Brooks, Principal Accountant
Date: 23 June 2017*

Legal Implications:

- 7.9 Where land is no longer required for the purposes for which it is held, a local authority may appropriate it for any purpose for which the authority is authorised to acquire land. The council has powers under the Housing Act 1985 to acquire land.
- 7.10 Where the land consists of or forms part of an open space, the proposed appropriation must be advertised for two consecutive weeks in a newspaper circulating in the area in which it is situated.
- 7.11 Section 24 (1) of the Housing Act 1985 provides that a local housing may make such reasonable charges as they may determine for the tenancy or occupation of their houses. The use of the word "may" in section 24(1) confers a discretion on the council. The law requires a discretion to be exercised reasonably. That involves taking into account relevant considerations, ignoring irrelevant ones and otherwise acting objectively. Relevant considerations include policy documents, such as the Housing Strategy 2015 and the Tenancy Strategy.

7.12 The Housing Strategy includes strategic actions that seek to:

Action 1: Prioritise support for new housing development that delivers a housing mix the city needs with a particular emphasis on family, Affordable Rent and where feasible, Social Rented housing.

Action 2: Continue work with a range of partners including Homes & Communities Agency, housing associations and the community housing sector to develop more affordable housing.

7.13 The Tenancy Strategy includes the following:-

We have also taken the opportunity through this Tenancy Strategy to outline our position on the use of new Affordable Rent tenancies introduced by the Government. We believe that these rents are too high for the majority of residents and the Strategy outlines our desire to cap these rents to make sure that they remain truly affordable to local people whilst at the same time ensuring that new housing development remains viable.

7.14 Where there is a relevant policy, or custom & practice suggests that a power will be exercised in a particular way, there is an expectation that the policy or custom & practice will be followed. The more the council deviates from its norm, the more susceptible to challenge a decision will be. The challenge will be by way of an application for Judicial Review, which is the mechanism whereby the High Court can review the lawfulness of a decision by a public body.

7.15 The wording of section 24 confers a wide discretion on the council to fix its rents, although the discretion is subject to the duty to prevent a debit balance on the HRA. Section 24(1) is drafted in the same terms as earlier legislation, such as the Housing Act 1925, Housing Act 1936 and Housing Act 1957, so cases decided under those Acts are relevant to determining the breadth of the council's discretion in fixing rents for the new properties. In *Leeds Corporation v Jenkinson* (1935) the court confirmed that the corporation could properly charge different rent levels for similar houses in the same area. In the case of *Summerfield v Hampstead BC*, decided in 1957, the court ruled that the authority were allowed to charge different rents for identical accommodation.

7.16 Options 1 and 2, being the options recommended by officers, are potentially within the council's powers, as is the new option 4a. The other options may be more vulnerable to challenge.

Lawyer Consulted: Liz Woodley, Senior Solicitor

Date: 22 June 2017

Equalities Implications:

7.17 An Equalities Impact Assessment has been carried out for the New Homes for Neighbourhood programme and actions are built into the Estate Regeneration project management procedures.

7.18 All the houses would be built to meet Building Regulations Part (M) Category 2 'accessible and adaptable' standard, the successor to Lifetime Homes Standard, with easy access from the car parking spaces. The upper flat would be accessed via an internal staircase as it is not financially viable to provide lift access to one

flat, but would otherwise meet the Part (M) Category 2 'accessible and adaptable' standard. The internal staircase is wide enough to accommodate a chair lift if one were required by a future tenant. The ground floor flat would fully meet the 'accessible and adaptable' standard and have a level access shower installed so that it may be let through Homemove with a Mobility 2 rating, as suitable for applicants unable to manage steps/stairs/steep gradients and requiring a wheelchair for outdoor mobility.

Sustainability Implications:

- 7.19 The new homes will meet sustainability standards for energy and water efficiency equivalent to Code for Sustainable Homes Level 4. The timber frame construction proposed for these homes has a much lower embodied carbon footprint than traditional block and build construction and the timber will be sustainably sourced in line with council policy.

Crime & Disorder Implications:

- 7.20 The new homes will be built following the police Secured by Design guidance.

Risk and Opportunity Management Implications:

- 7.21 There are a number of risks associated with developing new homes on small, challenging sites, including of relatively higher construction and development costs per home. A choice of three construction options and costings was developed at an early stage of design to ensure value for money for HRA investment in these homes. Development through the successful strategic construction partnership includes validation of best value and cost control measures as set out in paragraphs 3.36 and 3.37 above.
- 7.22 This proposal takes the opportunity of building much needed new affordable rented homes on a vacant piece of primarily council housing land which is currently underused open space.

Public Health Implications:

- 7.23 Energy efficient homes which are easier and cheaper to heat will help support the health of households. Large family homes can be let to households which are currently overcrowded. The ground floor flat would be suitable for applicants with very limited mobility. There is accessible, alternative open and recreational space of various types in the immediate area for the public to use.

Corporate / Citywide Implications

- 7.24 The New Homes for Neighbourhoods programme of building new homes on council land supports the council's priorities for the economy, jobs and homes. The development of new housing has a strong economic multiplier impact on the local economy, estimated at over £3 of economic output for every £1 of public investment, creating jobs and supply chain opportunities.
- 7.25 Every new home built on small sites helps meet the city's pressing housing needs and deliver the first priority in the council's [Housing Strategy 2015](#) of

improving housing supply. New homes help bring benefits to the council in the form of New Homes Bonus payments and new council tax income.

- 7.26 Appropriation of the small Environmental Services strip of land to the HRA at nil consideration will enable new, affordable rented, council housing to be built, in line with council priorities. Environmental Services would lose any liability for maintaining that land.

SUPPORTING DOCUMENTATION

Appendices:

1. Plan of site at Lynchet Close, Brighton including land to be appropriated to the HRA
2. Design study for eight new council homes on the site
3. Rent options and implications
4. Lynchet Close development costs (exempt category 3 – circulated to Committee members only)
5. Rent reduction impact (exempt category 3 – circulated to Committee members only)

Documents in Members' Rooms

None

Background Documents

None

