Housing Committee and Policy & Resources Committee

Agenda Item

Subject:		**Future Options for the Management of Temporary Accommodation**		
Date of Meeting:		**27 February 2023**		
Report of:		**Executive Director of Housing, Neighbourhoods & Communities and Chief Finance Officer**		
Contact Officer:	**Name:**	**Martin Reid** **Craig Garoghan**	**Tel:**	**01273** **01273 290000**
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Ward(s) affected:		**All**		

Note: Urgency

By reason of the special circumstances below, and in accordance with section 100B(4)(b) of the 1972 Act, the Chair of the meeting has been consulted and is of the opinion that this item should be considered at the meeting as a matter of urgency.

Note: Reasons for urgency

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that discussions have been ongoing, and the report could not be finalised and released in time.

FOR GENERAL RELEASE

1 PURPOSE OF REPORT AND POLICY CONTEXT

1.1 This report sets out the options for the future management of Temporary Accommodation (TA) including the financing of properties leased by Brighton & Hove Seaside Community Homes (Seaside Homes).

1.2 The need to explore options for refinancing properties managed by Seaside Homes was identified in an audit of the arrangements which had identified a number of financial risks to the council and resulted in an action to review the arrangements being included in the council's Annual Governance Statement 2019/20. Managing the high demands for emergency and temporary accommodation during the pandemic has necessarily delayed further consideration of the position.

1.3 Seaside Homes had themselves approached the council regarding a potential refinancing option for the current arrangement which is financed by a commercial bank loan.

2 RECOMMENDATIONS

That the Housing Committee:

2.1 Recommends that the Policy & Resources Committee agrees that the Council should seek to end the current Local Delivery Vehicle arrangement in order to bring the temporary accommodation currently leased to Seaside Homes back into Council control.

2.2 Recommends that the Policy & Resources Committee grants delegated authority to the Executive Director Housing, Neighbourhoods & Communities to commence tripartite discussions and undertake the due diligence required for the Committee to make a final decision as soon as practicably possible.

That Policy & Resources Committee:

2.3 Agrees that the Council should seek to end the current Local Delivery Vehicle arrangements and bring the temporary accommodation currently leased to Seaside Homes back into Council control.

2.4 Grants delegated authority to the Executive Director Housing, Neighbourhoods & Communities to commence the tripartite discussions and undertake the due diligence required for the Committee to make a final decision as soon as practicably possible.

3 CONTEXT/ BACKGROUND INFORMATION

Seaside Homes Background

3.1 At the time BHCC Cabinet approval was given to set up the Local Delivery Vehicle (LDV) that became Seaside Homes (24 September 2008), around half of all council homes in Brighton and Hove fell below the Decent Homes Standard. This was prior to Government lifting of the Housing Revenue Account (HRA) Borrowing Cap in October 2018, and the financial situation at that time was such that the authority could not provide sufficient resources to achieve the Standard.

3.2 Following the outcome of the tenants' stock transfer ballot in 2007, which overwhelmingly rejected a stock transfer proposal, officers reviewed strategic housing options to reflect the decision that the stock would be retained by the council and to identify a strategy to fund the investment gap to achieve the Decent Homes Standard and meet tenant aspirations for improvements to the stock.

3.3 Two key approaches were followed:

- A Procurement Strategy that would see the council enter into a long-term partnership agreement for the maintenance and improvement of the council housing stock, reducing overheads and direct costs. This became the 10-year contract with Mears.
- An asset management plan, which would see the creation of a Local Delivery Vehicle (LDV) that would sit outside the council to utilise HRA assets requiring reinvestment and not occupied by Secure Tenants, levering in additional investment to improve the council housing stock. The LDV became Seaside Homes.

3.4 The purpose of the LDV was:

- To bring in additional investment to improve council homes and assist in meeting the Decent Homes Standard and improvement of the council housing stock.
- To meet strategic housing and corporate priorities. In particular, to provide accommodation for people to whom the council owed a housing duty. This became the Seaside TA portfolio.
- To refurbish the leased stock.

3.5 Given tenants' overwhelming rejection of the stock transfer proposal, the following parameters were set:

- No housing association (RSL / RP) involvement;
- No freehold transfer;
- No transfer of tenanted properties;
- Maximum permitted transfer of 499 properties within a period of 5 years.

3.6 The model was envisaged as follows:

- The council would lease properties to the LDV on a long lease of up to 125 years, with a break clause at 40 years later added.
- The LDV would pay for refurbishment of the properties and let them to tenants nominated by the council. This became the TA portfolio, with the council providing management and maintenance of the homes as well as nominations.
- The LDV could borrow commercial capital on the basis of secure revenue streams from the rental income; this paid for refurbishment costs and the lease premium to the council.
- Rents would be within housing benefit levels already used when providing accommodation for the client groups in question with a guarantee provided by the council where benefit rates do not increase by assumed inflation.

3.7 A total of £28.5m was generated from the leasing of HRA assets to Seaside Homes for Temporary Accommodation (TA) for refurbishment of the leased stock and to deliver improvements to the council's retained HRA stock under the council's Decent Homes programme during the period from April 2009 to April 2016.

Temporary Accommodation

3.8 Alleviating homelessness and rough sleeping is a key priority in the Housing Committee Work Plan (2019-23). This includes a priority action to '*Develop a strategy for the provision of council-run temporary accommodation including Seaside Homes'* and a key priority in the Council's Homelessness and Rough Sleeping Strategy.

3.9 Post pandemic, the council currently has a historically high number of households in TA, with 1,288 TA and 531 Emergency Accommodation (EA) properties as of February 2023. Funding for TA is a demand-led budget of corporate significance carrying potentially high financial risks that could have a material impact on the council's overall financial position. The outturn 2021/22 budget position for TA was an overspend of £1.715m, (P&R Committee 7th July). A provision for underlying TA and Rough Sleeping pressures of £1m was provided in the 2022/23 budget alongside £1.6m one-off funding to cover ongoing pandemic costs. A further £2.355m is provided for 2023/24, however, this largely reflects the abnormal inflationary and interest cost environment which is impacting on TA leasing costs.

3.10 Key to the Housing, Neighbourhoods & Communities directorate's budget strategy and planned savings of £1.780m in the current year is the reduction of use of EA and TA. The Housing Service continues to work to improve pressures on the TA budget through the Homelessness Transformation Programme. This is an 'end to end' improvement review to help the service improve its processes to reduce the use and length of stay in EA and TA by improving homeless prevention, homeless processes and enabling move on to more sustainable accommodation. The service is already seeing reductions to the number of households in EA and TA through a combination of better prevention from homelessness and improved move-on. Further efficiencies will be sought by continuing to improve move-on processes, void turnaround times in EA and improving income collection (benefits) thereby continuing to reduce costs in 2022/23 and 2023/24 in line with the budget strategy.

3.11 In light of this, making best use of our existing TA capacity and reviewing all TA cost pressures is critical. Given that the TA provided by Seaside Homes makes up approximately 40% of the council's TA portfolio and is designated a long-term TA resource, reviewing options to make best use of this TA stock is a crucial starting point for the overall review being undertaken as part of the wider Homelessness Transformation Programme. In particular, the need for review is further substantiated when this is aligned to the additional financial challenges arising from the current Seaside Homes agreement.

The current Seaside Homes agreement with the council

3.12 Seaside Homes currently leases 499 properties from the HRA that are held for TA. The Corporate Plan includes a commitment to *"Negotiate a new agreement with the local charity Seaside Homes to develop better ways of supporting homeless people"*. The current agreement is known to present a number of financial challenges as it was based on annual Local Housing Allowance (LHA) benefit uplifts of 3.2% that have not been realisable due to changes in government policy and other economic factors. However, this is only one of many issues with the Seaside Homes arrangement which are as follows:

- The Agreement contains a rent guarantee clause that is resulting in annual 'top-up' payments due to LHA rates being suppressed, as at 31st March 2022 the debt owed to the council stood at £2.3m;
- Although the arrangement was designed to generate surpluses ('available monies') in later years, these cannot be relied on due to continuing uncertainty over future national welfare benefit policy;
- The commercial financing of the arrangement, while a viable alternative at the time due to a financing debt cap on the HRA (since removed), is relatively expensive compared to public sector financing alternatives, even in the current environment of higher interest rates;
- The council has unexpectedly had to budget for all insurance costs (£0.100m pa) due to ambiguity in the original Seaside Agreement further affecting the viability of the arrangements;
- The management of the arrangements is largely undertaken by the council which manages allocations, collects rents, manages voids, undertakes repairs & maintenance, etc. but there remains a significant overhead fee payable under the original agreement to Seaside Homes. Seaside Homes provides some administrative and executive services and employs 3.6 (full time equivalent) staff.
- There are a number of governance and control issues as identified in the internal audit review that emanate from the council not having full control of the arrangements.

3.13 Seaside Homes is a private company and a registered charity. There are representatives of the Council and tenants and independent members on the board. Each group appoints three representatives and these representatives become the members of the company. The Council itself is not a direct member of the Company. This means that the Company is not a subsidiary of the Council. The Council has nominated three members to the board. The Council will nominate future members to the board at Full Council in May. The board is quorate with 5 members. The Housing Area Panels appoint the tenant board members. The council understand that there is currently only one tenant board member in place. These tenant board member positions would usually be filled via a future round of Area Panels.

Reviewing the Seaside Agreement

3.14 Recognising the challenges inherent in the current arrangement, Seaside Homes has approached the council regarding a potential refinancing option for the current arrangement which is financed by a Santander Bank loan. Their proposal aims to provide an improved financial arrangement for the council and to provide Seaside Homes with an opportunity to add properties to its portfolio. Under the current Seaside proposals, new homes would be aimed at key workers which does not fit with the council's strategic priorities to deliver an additional 800 council homes and another 700 affordable homes for rent to nominees from our Housing Register consisting, 4,632 households as of 22nd February 2023, this includes households in expensive TA consisting,1,288 properties as of February 2023, to whom we owe a housing duty. The proposal includes the option to use either institutional investors or PWLB borrowing from the council.

3.15 The proposal is not a straightforward refinancing option and has several complexities that have legal, financial and policy implications. In particular, the proposal includes a plan to utilise additional borrowing of c.£12.000m to acquire more homes, as well as a requirement for the council to substantially lengthen the lease periods applicable to transferred properties to provide additional value to Seaside Homes, which would enable them to obtain longer term, lower cost finance.

3.16 Regardless of Seaside Homes' proposals, as a Best Value Authority, the council has a duty to review the current arrangements from a value for money perspective and consider all options available to it including the option to seek to terminate the current agreement and bring the 499 homes back into council ownership to be let as TA (as currently). Note that taking the properties back for General Needs use would not be financially viable. This is particularly so as the reason for the creation of Seaside Homes local delivery vehicle (LDV), which was to lever in external financing that was not available in-house due to the previous debt cap regulations, is now no longer relevant.

3.17 The option to pursue termination of the current agreement would similarly entail a number of financial and legal issues that need to be considered. These are mainly centred around how the current loan agreement and contractual arrangement can be ended, how much this would cost in terms of financial penalties, how the stock would be bought back in house and under what arrangement it would be managed.

Status of Tenancies

3.18 A key consideration in reviewing any options is the status of the tenancies. The council has taken advice from Counsel as to the risk of the Seaside Homes properties becoming subject to secure tenancies, which would severely restrict their use as a TA resource. The advice confirms that the risk is very low for the reasons set out in the legal implications below.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 Table 1 below outlines five distinct options that have been identified for the council to consider, including the status quo. The table sets out the main advantages and disadvantages of each option, including bringing the Seaside Homes properties back into direct council control (the preferred and recommended option). For completeness, it considers the option of transferring the stock into a council-controlled company but shows there is no advantage to this, and a number of disadvantages.

Table 1 – Options appraisals		
Options	**Advantages**	**Disadvantages**
1) Do nothing	• Current arrangements mean that the maintenance and major repairs costs are uplifted by 4% per annum.	• Lack of control over the properties limits the council's ability, over time, to optimise their use to meet its strategic needs and objectives. • Rent guaranteed at 91% occupancy. • BHCC liable for annual top up ('rent guarantee') payments due to suppressed LHA rates. At 31st March 2022 BHCC has a £2.3m

Table 1 – Options appraisals		
Options	**Advantages**	**Disadvantages**
		'top up' debtor on its Balance Sheet. Risk that this could grow if LHA rates do not increase in line with 3.2% inflation expected. Although potentially recoverable in later years of the agreement there is a high risk this may not be realisable in full. • Risk of not recovering all of the management and maintenance costs. • Restricted and uncertain payments back from Seaside Homes. • Significant officer time required to manage Seaside Homes arrangements. • Cost of building insurance is not recoverable from Seaside Homes as envisaged when the agreement was drawn up (£0.100m pa). • Negative impact on value for money of additional operational and overhead costs resulting from having Seaside Homes as a separate entity.
2) Agree refinancing with institutional investors in line with Seaside Homes proposal (excluding loan for additional properties).	• £2.3m debtor cleared from BHCC Balance Sheet. • BHCC no longer required to make top up payments.	• Lack of control over the properties limits the council's ability, over time, to optimise their use to meet its strategic needs and objectives. • Rent Guaranteed at 91% occupancy. • Proposal links management costs to LHA Rates and could potentially cost the council more if general inflation is above LHA inflation (as now). • Seaside Homes' proposal requires significant extension of lease life and the removal of break clauses, further distancing council control. • Significant officer time required to manage Seaside Homes arrangements. • BHCC to be the loan guarantor and would be liable for running costs if Seaside Homes defaulted. • Any estimated long-term surplus is held within Seaside Homes. • VAT cannot be reclaimed by Seaside Homes on management, maintenance, major works costs.

Table 1 – Options appraisals		
Options	**Advantages**	**Disadvantages**
		• Estimated annual deficit for BHCC. • Cost of building insurance not recovered from Seaside Homes. • Long-term commercial interest rates are currently unfavourable.
3) Agree refinancing via BHCC using 30-year PWLB borrowing in line with Seaside Homes proposal (excluding loan for additional properties)	• BHCC receive a margin on the PWLB loan to comply with ‘subsidy’ rules. • £2.3m debtor cleared on BHCC Balance Sheet. • BHCC no longer required to make top up payments. • Other terms of the agreement may be negotiable to improve value for money.	• Control over the properties resides with Seaside Homes and is likely to place similar limitations on the council’s ability, over time, to optimise their use to meet its strategic needs and objectives subject. • Rent Guaranteed at 91% occupancy. • Proposal links management costs to LHA Rates and could end up costing the council more if general inflation is above LHA inflation (as now). • Significant officer time required to manage Seaside Homes arrangements. • Recycling of council funds. • Any estimated long-term surpluses held within Seaside Homes. • VAT cannot be reclaimed by Seaside Homes on management, maintenance, major works costs. • Cost of building insurance not recovered from Seaside Homes. • Proposal potentially results in an annual deficit for BHCC after taking account of all operational costs, the existing top up debtor, Santander Bank penalties for early redemption, and professional fees for arranging financing and new legal agreements.
4) End the contract & transfer stock in-house on the same 30-year loan period as option 2.	• Reduced overhead payments (management costs) compared to those currently paid via current Seaside Homes proposals. • Potential to switch use if bought into the HRA (can be either TA or general needs housing as required). • £2.3m debtor cleared on BHCC Balance Sheet.	• TUPE is likely to apply on transfer. • SDLT is payable (but accounted for in the financial appraisal). • Potential debt write-off of any rent arrears due to a change in people’s tenancies *. • After taking account of all operational costs, and Santander Bank penalties for early redemption, there is an annual cash deficit assuming income is

Table 1 – Options appraisals		
Options	**Advantages**	**Disadvantages**
	• Homes would form part of HRA stock and be managed alongside other TA units with less officer time required. • VAT can be reclaimed on all costs by BHCC, therefore costs of managing the properties are lower.	estimated at LHA TA rates at 90% of the 2011 rate. This could be mitigated by grant income but is not guaranteed.
4a) End the contract & transfer stock in house using the flexibility of a 50-year loan period only available to the council.	• After taking account of all operational costs, and Santander Bank penalties for early redemption, there is an annual cash surplus estimated at LHA TA rates at 90% of the 2011 rate. This would enable reinvestment into council priorities including housing supply. • The council would have full control of the properties which can therefore be fully aligned to meeting strategic needs and objectives. • Stock would form part of HRA stock and be managed alongside other TA units with less officer time required. • Reduced overhead payments (management costs) compared to those currently paid via current Seaside Homes proposals, improving the value for money of the TA. • Potential to switch use to General Needs over a longer timeframe, subject to financial viability, if bought into the HRA. • £2.3m debtor cleared on BHCC Balance Sheet. • VAT on all costs can be reclaimed by BHCC, therefore costs of managing the properties are lower.	• TUPE is likely to apply on transfer. • SDLT payable (but already included in the financial appraisal). • Potential debt write-off of any rent arrears due to change in people's tenancies *.
4b) End the contract & transfer stock in house on the same 30-year loan period with no Minimum Revenue Provision allowance	• After taking account of all operational costs, and Santander Bank penalties for early redemption, there is an annual cash surplus assuming income is estimated at LHA TA rates at 90% of the 2011 rate. This would enable reinvestment into council priorities including housing supply. • The council would have full control of the properties which can therefore be fully aligned to	• TUPE is likely to apply on transfer. • SDLT payable. • Potential debt write-off of any rent arrears due to a change in people's tenancies *.

Table 1 – Options appraisals		
Options	**Advantages**	**Disadvantages**
	meeting strategic needs and objectives. • Reduced overhead payments (management costs) compared to those currently paid via current Seaside Homes proposals. • Potential to switch use to General Needs over a longer timeframe subject to financial viability, if bought into the HRA. • £2.3m debtor cleared on BHCC Balance Sheet. • Stock would form part of HRA stock and be managed alongside other TA units with less officer time required. • VAT can be reclaimed on all costs by BHCC, therefore costs of managing the properties are lower.	
5) End the contract and transfer the stock to a council controlled and owned company (COAC)	• Potentially, greater council control but would depend on the governance model agreed. • Substantially reduced overhead payments (management costs) compared to those currently paid to Seaside Homes. • £2.3m debtor cleared on BHCC Balance Sheet. • Stock would form part of a management agreement with the company and be managed alongside other housing units with less officer time required than current Seaside Homes arrangements.	• TUPE is likely to apply on transfer. • SDLT payable, which could double the charge for properties already purchased under the Home Purchase Policy. • Potential debt write-off of any rent arrears due to a change in people's tenancies. * • Significant cost of establishing company and ongoing administration costs. • Potential for the company overheads to grow over time as with the Seaside Model. • There would be unrecoverable VAT chargeable on management fees. • There would be potential corporation tax liabilities that could further impact financial benefit. • After taking account of all operational costs and Santander Bank penalties for early redemption, there is an annual cash deficit assuming income is estimated at LHA TA rates at 90% of the 2011 rate.

** The risk of potential write-off of rent arrears is a hypothetical point as recovery of arrears is generally low for these tenants who are generally low income households.*

Financial Assessment

4.2 Financial assessments have been undertaken using an annual cashflow analysis for each option. This works better than Net Present Value because of the different financing periods of the various options which means that judgements about future interest rates for differing time periods (discount factors) would need to be made, This introduces a significant element of judgement and prediction which could give false results given that even small variations in discount factors can have significant impacts over long time periods. Analysis on a cashflow basis uses current inflation and interest rates for all options and enables like-for-like comparison.

4.3 The calculation of the loan investment under options 3 to 5 includes significant allowances for professional fees and the break costs of the Santander loan, however, under Option 2 no investment is required by BHCC as Seaside Homes would seek institutional investment guaranteed by BHCC. Appendix 1 details the investments required by BHCC under options 3 to 5. For the purposes of the financial assessments the loan for additional properties under options 2 and 3 has been excluded for the reasons outlined in paragraph 3.12.

4.4 Under options 4 to 5, Stamp Duty Land Tax (SDLT) will be payable by the council. Advice has been sought from external tax advisors regarding this matter. Based on the current proposals, Multiple Dwellings Relief (MDR) could be available and would result in a SDLT liability of c.£1.310m. If MDR was not available, the liability could increase to £2.180m. For the purposes of the current financial assessments the higher level of SDLT has been assumed; any reduction of the SDLT liability will have a positive impact on the annual cashflow. Further clarification is being sought regarding other potential costs that may apply for the option of transferring stock into the council as follows:

- repayment of the balance sheet debt the council holds (repayment is currently assumed in all options);
- potential debt write-off from any tenants' rent arrears as there will be a need to reset the tenancy agreements which may preclude recovery of arrears under a Seaside tenancy. However, as noted above, recovery of arrears is unlikely to be high in any scenario;
- any redundancy payments (following TUPE transfer of Seaside staff):

4.5 The management, maintenance, and major works have been calculated using the last 4-years' average costs experienced for the management of the Seaside Homes properties and any grant applied in those years has been removed from the calculation to ascertain the true costs of the arrangement.

4.6 Under option 3, any refinancing of the loan will need to be undertaken on similar terms to the current Santander Loan which still has 30 years left. To provide a direct comparison, option 4 (refinance via PWLB and transfer stock in-house) has been assessed on a similar 30-year basis, however the council has further flexibility to borrow over longer periods or determine its policy for managing debt repayments (MRP) allowing a further two sub-options, 4a and 4b, to be considered. Option 4a extends the length of the PWLB loan to 50 years and option 4b removes any Minimum Revenue Payment (MRP) from the calculation, both having the impact of reducing the annual financing costs.

4.7 The analysis of the annual cashflow results show that options 4a and 4b potentially provide a positive cash return for BHCC however, options 1, 2, 3, 4 and 5 would not and would add further service pressures to the TA service and the General Fund budget. There is the potential to mitigate this cost pressure via grant income, but this cannot be relied upon in future years so would be a major risk to those options.

4.8 There is a greater level of certainty, reduced risks, flexibility, and greater surpluses available through the withdrawal from the Seaside Homes arrangement which would therefore enable increased investment by BHCC directly in new affordable housing.

4.9 Option 5, transfer to a council-controlled company, is provided for completeness and because the council has previously considered the option of a Wholly Owned Housing Company. This model demonstrates that over a 30-year loan period an annual deficit would be incurred; in addition to this there are no other non-financial benefits or advantages compared to Option 4. It is therefore not viable compared to Option 4.

4.10 Table 2 below summarises the annual cash surplus / deficit for the use as TA under each option 1 to 5. The full detail of the assessment for each option is set out in Appendix 1:

Table 2: Estimated annual cash (surplus) / deficit assuming 100% TA		**£'000**
Option		
1	Do nothing - status quo	320
2	Agree refinancing with institutional investors in line with Seaside Homes proposal (excl additional loan)	320
3	Agree refinancing via BHCC using PWLB borrowing in line with Seaside Homes proposal (excl additional loan)	10
4	End the contract & transfer stock in house	550
4a	End the contract & transfer stock in house – with loan period mitigation	(50)
4b	End the contract & transfer stock in house – with MRP mitigation	(300)
5	End contract & transfer stock to a Council controlled company	940

4.11 For information, the number of units and rent levels for each property type are listed in Table 3 below. If homes are bought back into council ownership the rental income would be limited to the LHA TA Rate, which is based on 90% of the 2011 LHA rate.

Table 3: Rent Levels			
Type	**Number of Units**	**Full LHA rent per week £**	**LHA TA rent per week £**
1 Bed	227	184.11	135.00
2 Bed	214	230.14	176.54
3 Bed	53	276.16	228.47
4 Bed	5	390.08	299.98

Evaluation of Options

4.12 Option 1 (Do Nothing) is not considered viable for the following reasons:

(i) It does not address the agreed action in the Annual Governance Statement to review the Seaside Homes LDV;

(ii) Consequently, it does not address the financial and governance risks and issues identified in the audit review;

(iii) The council would continue to be liable for substantial top-up payments which as at 31st March 2022 stood at £2.3m and are expected to grow under the current welfare benefit regime;

(iv) Future 'available monies' under the agreement are highly uncertain;

(v) The council would continue to have no direct control of the properties and may not be able to align or optimise their use in relation to its long-term Corporate Plan and Housing strategies and needs assessment.

4.13 Of the two options proposed by Seaside Homes Option 2 does not provide a financial return to BHCC, however Option 3 would appear to result in only a small deficit. In addition to the deficit estimated for Option 2, there are likely to be significantly higher arrangement fees, time delays and risks involved in seeking an institutional investor. However, with both options there remain significant problems as follows:

(i) The properties remain outside of the control of the council;

(ii) A new arrangement may not address all of the governance and other risks and issues identified in the audit review of the Seaside Homes LDV;

(iii) Management costs, rent guarantees, voids and other costs are likely to remain higher than for direct control of properties;

(iv) The use of the additional properties proposed by Seaside Homes (e.g. for key workers) may not align with the council's strategic priorities and TA demands;

(v) Option 2, and potentially Option 3, subject to negotiation with Seaside Homes, require the council to substantially increase the length of the lease arrangements, putting the properties further out of reach of council control;

(vi) There are potential risks around the subsidy regulations although these are expected to be low as PWLB usage assumes an appropriate margin to match commercial rates.

4.14 Option 4 would not provide a financial return for reinvestment in council priorities however sub-options 4a and 4b would provide a positive return as well as providing direct control over the properties. Clarification on the repayment of bad debt is required and will become clear as options are considered in more detail. The current assumption is that the reserves currently held by Seaside Homes, which forms part of their loan agreement with Santander, would be available to repay this.

4.15 Under Option 5, consideration has been given as to whether a wholly owned company would offer any further benefits to Option 4 of bringing the properties back in house. A legal and financial review was carried out by officers and these reviews concluded that no additional benefits would accrue if the wholly owned company option was pursued and that there would be some disbenefits. The following summarises why this is the case:

(i) Counsel confirmed that secure tenancies would not be created whether the properties are held directly by the council or held within a wholly owned company;
(ii) The rental amount chargeable through the wholly owned company would be subject to the same regulations as if held directly by the HRA;
(iii) The wholly owned company would not be able to register for VAT and so therefore would pay costs gross of VAT, reducing the financial return to the council; and
(iv) The wholly owned company would be liable to pay corporation tax if profitable, further reducing the financial return to the council.

Next Steps

4.16 Before seeking a final Committee decision on the preferred option, officers will need to carry out further due diligence and engage in tripartite discussions with Santander and Seaside Homes. Further details are provided in the part 2 report.

5 CONCLUSION

5.1 The management of Temporary Accommodation resources is critical to the council meeting its Corporate Plan commitments and strategic housing requirements, including aligning resources to future strategic needs assessments. As noted above, a large element of TA is currently held under an agreement with Seaside Homes.

5.2 The current Seaside Homes arrangement contains many risks and issues. It is expensive, carries significant future financial risks and, as highlighted to the Audit & Standards Committee in January 2019 following an audit review, is burdened with a range of management and governance issues. The council's Annual Governance Statement contains an agreed action to review the Seaside Homes local delivery vehicle.

5.3 This report identifies 5 core options, including the status quo, for the future management of TA currently managed by Seaside Homes. The best option for the council is to end the Seaside Homes arrangement and bring the properties back into the direct ownership of the council under sub-option 4a or 4b.

6 FINANCIAL AND OTHER IMPLICATIONS

Financial Implications

6.1 The financial implications are set out in the body of the report and in Appendix 1.

Finance Officer consulted: Craig Garoghan Date: 20/02/2023

Legal Implications

6.2 The legal implications are set out in the Part 2 report.

Legal Officer consulted: Alice Rowland Date: 14/02/2023

SUPPORTING DOCUMENTATION

Appendices:

1. Options Appraisals including annual cash flow analysis and assumptions
2. Documents in Members' Rooms

1. None

Background Documents

1. None

Appendix 1

FINANCIAL APPRAISAL OF OPTIONS

Option 1: Status Quo

This option is not viable for the following reasons:

1) It does not address the agreed action in the Annual Governance Statement to review the Seaside Homes LDV.
2) Consequently, it does not address the financial and governance risks and issues identified in the audit review.
3) The council would continue to be liable for substantial top-up payments which as at 31st March 2022 stood at £2.3m and are expected to grow under current welfare benefit regime.
4) Future 'available monies' under the agreement are highly uncertain.
5) The council does not have direct control of the properties and may not be able to align their use with it long term Corporate Plan and Housing strategies.

Options 2 to 5

Summary of investment and funding flows:

Option 2 does not require any investment by BHCC, instead the proposed funding for that option would come from an institutional investment sourced by Seaside Homes.

Options 3 to 5 result in estimated refinancing costs of between £43.7m and £46.2m, including where applicable on costs i.e. any Stamp Duty Land Tax payable.

Detailed Annual Cash Flow Projections of each option for BHCC:

Annual Cashflows for BHCC	Option 1 - Do nothing	Option 2 - Institutional investment	Option 3 - Refinance (30 year annuity loan)	Option 4 - In house (30 year annuity loan)	Option 4a - In House (50 year annuity loan)	Option 4b - In House (30 year maturity loan)	Option 5 - COAC
Expenditure							
Rent Guarantee	5,080	5,080	5,080	-	-	-	4,630
Management	360	360	360	360	360	360	360
Maintenance	780	780	780	780	780	780	780
Major Works costs	500	500	500	500	500	500	500
Major Works provision	230	230	230	-	-	-	-
Building Insurance	120	120	120	120	120	120	120
Financing Costs	-	-	2,470	2,600	2,000	1,750	2,600
	7,070	**7,070**	**9,540**	**4,360**	**3,760**	**3,510**	**8,990**
Income							
Net Rent	(4,950)	(4,950)	(4,950)	(3,810)	(3,810)	(3,810)	(3,810)
Management Fee	(310)	(310)	(310)	-	-	-	(360)
Maintenance Fee	(760)	(760)	(760)	-	-	-	(780)
Major Works fee	(730)	(730)	(730)	-	-	-	(500)
Financing Costs	-	-	(2,780)	-	-	-	(2,600)
	(6,750)	**(6,750)**	**(9,530)**	**(3,810)**	**(3,810)**	**(3,810)**	**(8,050)**
Net (Income) / Expenditure	**320**	**320**	**10**	**550**	**(50)**	**(300)**	**940**

Assumptions:

Assumption	**Option 2 (Institutional Investment)**	**Option 3 (PWLB Refinance)**	**Option 4 (In-House)**	**Option 4a (In-House)**	**Option 4b (In-House)**	**Option 5 (COAC)**
Cash flow compares current 499 properties only. No assumptions are made concerning any new properties.	X	X	X	X	X	X
Investment includes the Santander Loan Break costs.		X	X	X	X	X
Management costs of c.£720 per unit per annum are in line with the last 2 years' average cost to the council.	X	X	X	X	X	X
Maintenance costs of c.£1,560 per unit per annum are in line with the last 2 years' average cost to the council.	X	X	X	X	X	X
Major repairs costs of c.£1,000 per unit per annum are in line with the last 2 years' average cost to the council.	X	X	X	X	X	X
Rents set at LHA rates.	X	X				
Rents set at LHA TA rates.			X	X	X	X
Bad Debts and voids set at 11% in line with current costs of managing the Seaside Homes properties.	X	X	X	X	X	X
30 Year Borrowing Term and 30 year annuity PWLB rate 3.8%*		X	X			X
A margin of 1% applied to the PWLB rate to comply with Subsidy regulations.		X				
50 Year Borrowing Term and 50 year annuity PWLB rate 3.60%*				X		

Assumption	**Option 2 (Institutional Investment)**	**Option 3 (PWLB Refinance)**	**Option 4 (In-House)**	**Option 4a (In-House)**	**Option 4b (In-House)**	**Option 5 (COAC)**
30 Year Borrowing Term and 30 year maturity PWLB rate 3.8%*					X	
Rent guarantee is set at a rate to meet the COAC's obligations for VAT and Corporation Tax.						X
Cost neutral impact of TUPE'd staff to the council.			X	X	X	X
BHCC bad debt written off at nil impact for the council.	X	X	X	X	X	X
Major works provision held on the balance sheet would be used to fund costs over and above the allowance in the financial assessments.			X	X	X	X

*Note that PWLB interest rates above are based on market predictions of prevailing interest rates at the point in time that the council expects to refinance the arrangement if this is approved. These could fluctuate up or down in the interim, but there would be an equivalent and opposite effect on any break costs applicable. The tripartite discussions and further due diligence process with Santander and Seaside Homes will inform the final figures to be presented back to committee.

Risks

Risk	Option 2 (Institutional Investment)	Option 3 (PWLB Refinance)	Option 4 (In-House)	Option 4a (In-House)	Option 4b (In-House)	Option 5 (COAC)
Management cost inflation increases at a faster rate than LHA rates, therefore could end up costing the council more.	X	X	X	X	X	X
Rents are Guaranteed at 91% under Seaside Homes' proposal.	X	X				
BHCC to be the loan guarantor and would be liable for running costs if Seaside Homes defaulted.	X					
Interest rate for investment cannot be achieved at rates modelled at 3.5%.	X					
Interest rate for investment cannot be achieved.		X	X	X	X	X
Margin of 1% is too high, therefore reducing the income to the council.		X				
Bad Debts and voids increase beyond the 11% included in the appraisal. The council's target is to reduce the bad debt and voids over the coming years.	X	X	X	X	X	X
Rents are Guaranteed to meet the estimated liabilities of the COAC.						X