

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Portfolio Holder for Assets and Planning

Executive Director - Commercialisation (S151 Officer)

To: Cabinet – 27th April 2021

Council – May 2021

Author: Katie Nicol, Housing Development Programme Manager

Subject: Acquisition of housing for the Housing Revenue Account

Purpose: To set out details of the potential for the authority to acquire twelve new build homes for Affordable Rent tenure, on a development site in the district.

Recommendations to Cabinet:

- 1) To approve the business case and approve the acquisition of twelve homes for the HRA.
- 2) To delegate to the Executive Director – Commercialisation (S151) to agree the funding and contractual matters (including any terms and conditions which may represent a minor variation to the scheme approved in the business case) such as signing the contract/transfer document, making an application for Homes England grant funding, utilising RTB sales receipts for this project and other incidental actions that may be required and approving the associated due diligence and valuation required to purchase the properties.

Recommendations to Council:

- 3) To amend the Capital Programme to identify this project as an approved scheme in the 2021/22 Budget.

1.0 BACKGROUND

1.1 In the last 5 years South Holland District Council has increased investment in new housing within the district and more recently has strengthened the capacity of the Strategic Housing Development team. This team appraises potential acquisition and development schemes; project manages on site delivery; and oversees the handover of new homes into management for South Holland’s various delivery vehicles.

1.2 Since 2017/18, the Council has supported ten new development schemes:

Scheme name	Delivery vehicle	Number of dwellings	Timescale	Development type	Status
Walters Close, Spalding	Welland Homes	15	Properties completed 2017/18	Acquisition of completed dwellings from developer, with discount on OMV.	Complete

Tennants Close, Long Sutton	Welland Homes	5	Properties completed 2018/19	Acquisition of completed dwellings from developer, with discount on OMV.	Complete
Pankhurst Close, Spalding	Welland Homes	10	Properties completed in May 2019.	Welland Homes design and build contract.	Complete
Acquisition of S106 homes from Ashwood (Moulton, Cowbit, Donington)	SHDC HRA	18	Properties completing in phases from March 2019 to March 2020.	Acquisition of completed dwellings from developer, with discount on OMV due to S106 agreement.	Properties complete. End of defects stage.
Small Drove, Weston	SHDC HRA	34	Deadline to complete properties is March 2021 (as per Homes England grant terms).	Design and build contract.	Properties complete. Defects liability period stage.
Bentley Court, Spalding	Welland Homes	5	Purchase Complete	Acquisition of completed dwellings from developer, with discount on OMV.	Complete
Donington market acquisitions	SHDC HRA	7	Purchase complete	Acquisition of completed dwellings from developer, with discount on OMV.	Complete
Wignals Gate, Holbeach	SHDC HRA	19	Properties completing in phases from October 2020 to October 2022	Acquisition of completed dwellings from developer, with discount on OMV due to S106 agreement.	In progress
Northons Lane, Holbeach	Welland Homes	4	Properties completing April 2021	Acquisition of completed dwellings from developer, with discount on OMV.	Complete
Cobgate, Whaplode	SHDC HRA	7	Properties due to complete Jan – March 2022	Acquisition of completed S106 dwellings from developer, with discount on OMV.	In progress

- 1.3 The SHDC Housing Development team has been seeking new development opportunities. This has involved liaison with agents, property developers and housing associations that are delivering mixed-tenure schemes within the district. Through these discussions, a new scheme to acquire twelve new build homes has been identified.

2.0 SCHEME BUSINESS CASE

- 2.1 Officers have liaised with a local landowner, via an agent, regarding the development and acquisition of a scheme of 12 one-bedroom apartments at Roman Bank, Spalding. It should be noted that if this project is supported by Cabinet and Council, officers will undertake detailed contract negotiations and a thorough due diligence process. Ahead of formal approval, contract negotiations and due diligence will only proceed to initial stages.
- 2.2 The scheme will provide a block of 12 one-bedroom apartments across 3 storeys. The design provides for two separate cores, each serving 6 apartments (2 on each level). The detailed plans provide 12 car parking spaces, 1 per dwelling.
- 2.3 The site has a Planning consent and accordingly the layout and mix of dwellings has been approved by SHDC. The site is not subject to a S106 planning agreement.
- 2.4 The scheme is proposed to be built of red brick, reconstituted stone sills and a section of black horizontal boarding to provide contrasting detail to the elevation. The planning consent requires details of the materials to be agreed between the Developer and Planning prior to commencement, as a condition of the approval.
- 2.5 The details of the twelve homes at the centre of this business case are detailed in the table below.

Location	Plot	Type	Tenure	Indicative handover date
Roman Bank, Spalding	7	1 bed ground floor apartment	Affordable Rent	October 2022*
	8	1 bed ground floor apartment	Affordable Rent	October 2022*
	9	1 bed first floor apartment	Affordable Rent	October 2022*
	10	1 bed first floor apartment	Affordable Rent	October 2022*
	11	1 bed second floor apartment	Affordable Rent	October 2022*
	12	1 bed second floor apartment	Affordable Rent	October 2022*
	13	1 bed ground floor apartment	Affordable Rent	October 2022*
	14	1 bed ground floor apartment	Affordable Rent	October 2022*
	15	1 bed first floor apartment	Affordable Rent	October 2022*
	16	1 bed first floor apartment	Affordable Rent	October 2022*
	17	1 bed second floor apartment	Affordable Rent	October 2022*
	18	1 bed second floor apartment	Affordable Rent	October 2022*
TOTAL		12		

**Developer anticipated programme subject to confirmation.*

- 2.6 Whilst the homes were not designated as affordable homes in the Planning consent, they have been assessed by the Housing Team as being suitable for that purpose. The internal layouts of the flats allow for a combined living/kitchen/diner, a separate double bedroom and a bathroom. The apartments are stacked identically which reduces the risk of management challenges around noise transference.
- 2.7 The SHDC Housing Management team have been consulted regarding the scheme and are supportive of SHDC taking additional homes in this location and have advised that there is a strong housing need for this type of accommodation. One-bedroom accommodation is in high demand and will be a welcome addition to the HRA portfolio, as evidenced in Section 4 below.

- 2.8 An offer has been made to the developer subject to contract, legal due diligence, formal valuation and full approval. This offer has been accepted. A formal valuation was completed in April 2020 and reviewed by the RICS registered Valuer in November 2020 which confirms that, as agreed, the deal reflects good value for money. Details of the valuation are provided in Appendix A.
- 2.9 The landowner is seeking to develop the site rather than sell the land. Officers have explored options for the deal structure in conjunction with Portfolio Holder for Assets and Planning and the Deputy Leader of the Cabinet/Portfolio Holder - Finance, Strategy, Partnerships and an 'off-the-shelf' acquisition of the completed properties has been selected as the preferred option for negotiations regarding this site.
- 2.10 The Procurement Team has reviewed the structure of the project and are satisfied that this the project is not subject to procurement or tendering rules as it falls under the exclusion of acquiring land / property.
- 2.11 An 'off-the-shelf' acquisition represents the lowest financial risk to the authority during the construction of the project. This method of acquisition, whereby the dwellings are only purchased at completion, limits the authority's exposure to any development phase risk and any reputational or financial risk of either the contractor, or developer, becoming insolvent.
- 2.12 Whilst the units will not be built to a detailed SHDC specification, a specification will be agreed as part of the contract negotiations. The responsibility for the construction quality will sit with the developer and is established via contract condition.
- 2.13 SHDC will be entering into contract with the landowner, as developer, to acquire the dwellings. The dwellings are to be constructed via a separate contract between the developer and a contractor. SHDC will not be party to this contract or to the process of the selection of the contractor. Given the nature of the homes as an 'off-the-shelf' acquisition, the authority will have limited influence over the style and construction methodology of the properties. However, during negotiations, officers have specified that a traditional build method should be used and not a timber frame construction; this has been accepted. Officers will ensure that suitable measures will be incorporated into the project to ensure that fire safety and noise transmission mitigation measures are in place. These will be sought to be included within the contract so if evidence of the mitigation measures is not provided, the units will not be acquired. Officers will also work with the developer to agree a specification for the internal and external communal areas to ensure that they meet the authority's needs.
- 2.14 Officers will negotiate a contract for the purchase of these properties which seeks to provide the most advantageous position for the authority. A solicitor will be appointed to act on SHDC's behalf in order to ensure thorough due diligence will be undertaken on the land and development, this will included a detailed report on title and review of the statutory obligations, prior to entering contract.
- 2.15 Financial due diligence, such as company credit assessment and reference checking, is not required to be carried out on the land owner or the contractor as SHDC will only purchase the completed units once evidence is provided that the units are contractually compliant and have been built, inspected and deemed satisfactory by third party's such as Building Control, Warranty Provider and Planning.

- 2.16 The homes will have to be delivered in accordance with the contract and with all appropriate regulatory certification in place. In addition, the properties will be required to benefit from a suitable building warranty for a minimum of 10 years. Key document requirements will be listed within the contract and will need to be provided prior to completion taking place. The quality of the homes will also be checked by a Buyer's Representative appointed to act in the authority's best interests.
- 2.17 In the event, that the homes are not constructed in accordance with the terms of the contract, the authority will not have to purchase them. Officers will maintain regular contact with the developers through the build process to seek to ensure where possible, that the homes are delivered as agreed.
- 2.18 The process of due diligence may impact contract negotiations as more information is identified about the scheme. The contract is a negotiation between parties and officers will endeavour to negotiate the best position for the authority throughout. Any elements that are different to those assumed at approval will be reviewed as part of the due diligence review and approved by the Section 151 Officer in their role to agree the contractual matters to purchase the properties.
- 2.19 The site is located in an area of flood risk. The flood risk assessment for the site, carried out at planning stage, has identified that although the site is in flood zone 3(a), the actual risk of the site flooding from any Environment Agency watercourse is low. As a preventative measure flood resilience and resistance measures will be incorporated into the development as a planning requirement to reduce the risk of flooding. Ensuring that this planning condition is signed off will be required within the contract prior to purchase. As part of the due diligence process officers will be reviewing the proposals in relation to this to ensure that they are acceptable from a long-term management perspective.
- 2.20 An existing block of apartments, developed and retained by the landowner has already been completed on the land in front of this site, adjacent to the site entrance. This block is not included in the project acquisition, however, there is no hard boundary between the two sites. A private drive is used by the existing flats for access to the rear of the block, access to two parking spaces, and access to the refuse collection point. This road will also provide access to the 12 apartments subject to this business case and therefore the access road will be shared. The private driveway is in possession of the landowner who has not yet advised whether they intend to include the private driveway in the sale of the block of apartments or whether a management company will be established for the site. Agreement on this will form part of the contract negotiations. If the road is not transferred, a service charge may be applicable and so an allowance for this has been built into the financial modelling.
- 2.21 Officers have undertaken a business planning exercise for the delivery of these twelve homes which is provided at Appendix A. The evaluation shows that the scheme will provide a financial return for the authority.
- 2.22 As with all HRA projects a contingency sum has been included within the financial modelling of the scheme. This amount has been enhanced for this project as the design of the development includes communal areas which may need an increased specification to ensure they are suitably robust for the long term management of this block.

- 2.23 The financial assessment assumes that the apartments will be let as Affordable Rent tenure. The rental charged for these will therefore be inclusive of any service charge payable by the dwellings.
- 2.24 Affordable Rented tenure homes will be let at 80% of the local market rent value or at the Local Housing Allowance. Homes England stipulate a requirement to approve Affordable Rents being charged on any site which is not grant funded. However, this consent is likely to be forthcoming. Officers will submit a request to Homes England as part of the due diligence process. In the event that Homes England does not provide consent for the homes to be provided as Affordable Rent tenure, they will still be purchased but will be provided as Social Rent tenure instead. This creates a risk as set out in paragraph 9.4.3.
- 2.25 In terms of the overall Capital Programme for HRA Housing Development, there is total approved provision of £13m for schemes subject to detailed approval for the period 2021/22 to 2024/25. To date, one scheme has been approved for purchase, leaving adequate budget to finance this acquisition.
- 2.26 Delivering new homes for the HRA will mitigate the impact on the HRA business plan of the loss of homes through RTB sales. It will also improve the nature and mix of homes within SHDC's stock. However, it should be noted that if these properties are purchased and let as affordable homes, the Right to Buy will also apply to these properties. In the event of a RTB application, the 'cost floor' rule will ensure that a tenant's discount does not reduce the RTB sale price below the amount that has been spent on the property in the 15 years prior to RTB; this includes the capital costs of acquisition.

3.0 RIGHT TO BUY SALES RECEIPTS

- 3.1 On the 19th March 2021, Government published its response to a consultation on the use of receipts from RTB sales. The consultation response sets out changes to the RTB receipts system to help local authorities build more council homes. The reforms seek to give authorities substantially increased flexibilities.
- 3.2 The changes include extending the timeframe that local authorities have for spending RTB receipts from 3 years to 5 years; the ability to utilise the receipt for a higher percentage of a project's costs; enabling shared ownership tenure dwellings to be funded by receipts; introducing a cap on the use of RTB receipts for acquisition projects.
- 3.3 This business case does not take account of the newly published reforms. Appendix A provides a financial evaluation assuming that RTB receipts are used to part-fund 30% of total capital costs.

4.0 Key Considerations

There are a number of key matters to consider relating to this scheme which are as follows:

- An offer for the dwellings has been submitted and accepted by the developer.
- The valuation completed as part of the due diligence process has been carried out on the basis of 'Material Valuation Uncertainty' This is as advised by RICS and is common across all 'red book' valuations carried out during this time. This is as a result of the valuation process being based upon comparable evidence, which includes evidence from prior to, as well as during, the pandemic. Therefore, the

valuation must be considered with 'less certainty, and a higher degree of caution' than in normal times due to the uncertainty around the impact of the pandemic on the housing market.

- As this is an Affordable Rented tenure scheme, but not as a result of a S106 Planning agreement, an application could be made to Homes England to part-fund the project with Homes England grant funding, subject to meeting the relevant requirements.
- Alternatively, the project is also eligible for the use of Right-to-Buy sales receipts.
- If Right to Buy receipts or grant funding is used to part-fund the acquisitions, the return to SHDC will increase as the direct capital invested decreases. The financial return for the project is reported in Appendix A.
- The Housing team has confirmed that there is housing need identified in this location for one-bedroom accommodation.
- The financial appraisal assumes that the units are let as Affordable Rent tenure. This means that Homes England will be required to approve the charging of Affordable Rent and, if the scheme is supported by Members, a request will be made to Homes England to confirm this tenure can be applied.
- If approved, the scheme would be the first apartment block acquired or built for the authority since around 2006. Care will need to be taken to ensure that internal and external communal areas are suitable for the authority's needs. SHDC Housing officers have experience in delivering flatted schemes, and will liaise closely with colleagues in Housing Management and Repairs and Property to ensure their knowledge of managing other blocks in the district is applied to this project.
- It is acknowledged that this is not the only scheme which the authority could pursue and that there are other development sites in the district. However, this business case should be considered on the basis of the scheme specific information provided.

5.0 HOUSING NEED

- 5.1 New HRA homes contribute towards meeting housing need in the district.
- 5.2 The Strategic Housing Market Assessment identifies a need for 282 new affordable homes to be provided in the district each year, 85% of which should be for rent and 25% of which should be one-bedroom accommodation.
- 3.1 On average, 67 new affordable homes (including rented and shared ownership) have been provided in the district each year (2016/17 to 2020-21) by SHDC and other Registered Providers. Between 1st April 2020 and 31st March 2021, there were 103 affordable housing completions in the district, 46 of which were for rent.
- 5.4 It is anticipated that the demand for affordable housing will increase as a result of the pandemic. Analysis of the SHDC Housing Register indicates that the number of applicants on the register has increased from 350 at the end of March 2020 to 460 at mid-April 2021. Additionally, an increased number of people are unable to address their housing need once they are threatened with homelessness and are therefore presenting as homeless.

5.5 The housing register indicates a demand for 86 one-bedroom homes for general needs within Spalding and 134 within the district at in March 2021.

6.0 PROPOSED TIMETABLE

6.1 If this scheme is supported, the proposed timetable for future activity is as follows:

Indicative date	Activity	Decision
April 2021	Cabinet	To approve the business case for the acquisition of the properties. To delegate authority to sign the contract documentation to S151 Officer or similar, subject to satisfactory legal due diligence.
May 2021	Council	To amend the Capital Programme to approve the spend for this project.
May-July 2021	Contract negotiations; specification agreed and contractor identified	Delegated to Officers
July 2021	Exchange on contract	Delegated to Officers.
Oct 2022 *	Completion. Handover of properties	Delegated to Officers.
Oct 2023*	End of Defects	Delegated to Officers.

**Developer anticipated programme subject to confirmation.*

7.0 OPTIONS

7.1 **Option 1: To approve the business case for the purchase of twelve new build homes; to delegate authority to officers to conclude the due diligence and complete the purchase; to amend the HRA Capital Programme.**

Under this option, due diligence and contract negotiations would be undertaken, and external legal services commissioned. SHDC would exchange on the contract, with the purchase and transfer to occur once the properties are complete.

7.2 **Option 2: Do Nothing.**

Under this option, the authority would not proceed to purchase the properties. As a consequence, the expected benefits listed in Section 9 will not be realised. Officers would seek to identify alternative appropriate schemes for consideration by Cabinet and Council.

8.0 REASONS FOR RECOMMENDATION(S)

8.1 The recommendations to proceed with the purchase of twelve homes relates to the expected benefits detailed in section 9.

9.0 EXPECTED BENEFITS

9.1 It is anticipated that the report recommendations will support the realisation of the following benefits:

- **A return on investment.** As set out within the financial evaluation (Appendix A), there is a positive business case associated with the proposed investment.

- **The delivery of 12 additional dwellings into the HRA.** These homes meet the needs of those who require low cost rented accommodation.
- **Meeting housing need.** The homes proposed will meet housing need in a location where there is evidence of a strong need for additional affordable homes of this size.
- **The replacement of homes sold through Right to Buy.** On average, 23 Council homes have been purchased by tenants each year since 2017, by virtue of the Right to Buy. Since 1st April 2020, a further 14 properties have been sold to tenants. The delivery of new affordable homes can replace those homes lost each year, mitigating the impact of these losses on the HRA business plan.
- **The new homes can be part-funded from the time limited RTB receipts.** Investing the RTB receipts on new rented housing ensures that the receipts do not have to be returned to Government.
- **Alternatively, in lieu of utilising RTB receipts, the new homes could be part-funded via Homes England grant funding.** This is a competitive bidding process however the new affordable homes programme recently announced, is supportive of schemes of this type being grant funded.
- **Additional funding streams will improve the financial performance of the project.** If Right to Buy receipts or grant funding is used to support the scheme, the return to SHDC will increase as the direct capital invested decreases.
- **Market confidence.** The Council acting as a proactive purchaser of dwellings will provide confidence to local developers of the authority's aspirations to grow and to provide new housing solutions within the district.

10.0 IMPLICATIONS

In preparing this report, the report author has considered the likely implications of the decision. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

10.1 Constitutional & Legal

10.1.1 Cabinet are responsible for approving the business case for this project.

10.1.2 Council will be asked to consider amending the Capital Programme to allocate the budget for this project.

10.1.3 As per previous acquisitions, the legal support for the contract negotiations and purchase will be provided by an external firm.

10.2 Contracts

10.2.1 A contract will be required between SHDC and the developer. SHDC has not previously worked with this land owner/developer. A timetable will be agreed for the handover of the apartment block when the homes are ready to be occupied and safe, unimpeded access to the building and external areas is available.

10.2.2 The contract will contain a list of requirements and the properties will not be purchased until these requirements have been met. Additionally, SHDC will appoint a Buyer's Representative to provide quality assurance at handover.

10.2.3 It is anticipated that officers will commence negotiations with the developer regarding specification and contract terms immediately following Council approval. Once the broad contract terms have been agreed, the developer is likely to procure a price from a contractor. Accordingly, it is possible that the contractor will be selected before SHDC signs the contract.

10.3 Corporate Priorities

10.3.1 The recommendations contained within the report will make a notable contribution to the realisation of the Council's corporate priority around 'Your Home'.

10.3.2 The scheme supports "delivery of housing solutions to meet local needs and aspirations."

10.3.3 The recommendations also support the Council's objective to "ensure that our residents are enabled to live in high-quality housing no matter the tenure."

10.4 Financial

10.4.1 There is a detailed financial evaluation with financial implications set out in confidential Appendix A.

10.4.2 In terms of financial capacity, there is a total approved capital provision of £13m in the Capital Programme for the acquisition of new affordable homes by the HRA, for the period 2021/22 to 2024/25.

10.4.3 If this business case is supported by Cabinet, the recommendation to amend the Capital Programme to include this scheme as an approved scheme, will proceed to be considered by Council. In the event that Homes England does not provide consent for the homes to be provided as Affordable Rent tenure, they will still be purchased but will be provided as Social Rent tenure instead. This creates a risk that the anticipated financial return will be lower as the rental income for social rented housing is lower. Sensitivity analysis has been prepared which indicates that the scheme will still provide a positive financial return if the properties are provided as Social Rent tenure.

10.5 Reputation

10.5.1 Risks around reputation are mitigated through a robust project management structure. The Housing Development team work closely with colleagues in Communications on all projects and meet on a regular basis to ensure that a Communications Plan is in place where appropriate.

10.5.2 Regular engagement with the developer will be arranged once the contract is agreed and the site is in progress.

10.6 Risk Management

- 10.6.1 Acquisition and development activity has within it inherent risks. Officers strive to identify and manage risk at each stage of the project.
- 10.6.2 Each project has a risk register that is reviewed throughout the lifecycle of a project by the Project team.
- 10.6.3 Risks around acquisition activity are sought to be mitigated through regular review and the appointment of professional expertise to provide legal due diligence, and accredited valuation advice to ensure value for money, in terms of the cost of the project.

10.7 Stakeholders / Constitution / Timescales

- 10.7.1 The delivery timetable will be reviewed once final scheme approval is in place. However, the developer has suggested that the units will be completed in October 2022.
- 10.7.2 As all the homes are proposed to be Affordable Rent tenure these homes are obliged, as a statutory tenure, to be declared to Homes England. Officers will write to Homes England to seek their consent to provide these homes as Affordable Rent tenure. Therefore, even if Homes England grant funding is not provided, Homes England are a stakeholder in this acquisition. Consent has previously been provided to SHDC, by Homes England, for all non-grant funded Affordable Rent schemes, delivered by the authority.

11.0 WARDS/COMMUNITIES AFFECTED

Spalding St. Pauls

12.0 ACRONYMS

HRA – Housing Revenue Account

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Key Decision: Y

Exempt Decision: Exempt Appendix

This report refers to a Discretionary Service

Confidential Appendices attached to this report:

Please note that the following appendices are not for publication by virtue of Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information

Confidential Appendices attached to this report:

Confidential Appendix A - Financial Evaluation