



<b>REPORT TO:</b>	Cabinet – 19 <sup>th</sup> July 2022 Council – 27 <sup>th</sup> July 2022
<b>DATE:</b>	19 <sup>th</sup> July 2022
<b>SUBJECT:</b>	Acquisition of 18 rented S106 affordable homes in Holbeach, from a developer
<b>PURPOSE:</b>	To set out details of the potential for the authority to acquire 18 S.106 affordable homes on a development site in the district
<b>KEY DECISION:</b>	N/A
<b>PORTFOLIO HOLDER:</b>	Cllr R Grocock, Portfolio Holder for Assets & Planning
<b>REPORT OF:</b>	Matthew Hogan, Assistant Director - Strategic Growth and Development
<b>REPORT AUTHOR:</b>	Caroline Hannon, Head of Delivery
<b>WARD(S) AFFECTED:</b>	Holbeach Town;
<b>EXEMPT REPORT?</b>	Y – Exempt appendix  This report is exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 because it contains information relating to the financial or business affairs of any particular person (including the authority holding that information).

## SUMMARY

In March 2022, the Council approved the HRA capital programme which included capacity to deliver new homes. Following negotiation with the developer of a site in Holbeach, a scheme has been identified for SHDC to purchase 18 S106 affordable homes. The homes will all be for rented tenure and comprise a mixture of 1, 2, and 3-bedroom properties which will be ready for occupation in phases between August 2023 and March 2025. The homes will be owned and managed by the HRA and will be replace some of the homes which are sold to tenants exercising their right to buy.

In November 2021, Council adopted a HRA Housing Delivery Framework which set out that any new housing schemes within the remit of the framework, should be considered by the Executive

and schemes outside of the remit should be considered by Council. This scheme is outside of the remit of the framework

## RECOMMENDATIONS

### That Cabinet recommends to Council:

1. To approve the business case and approve the acquisition of 18 affordable homes within Holbeach, for the HRA.
2. To delegate to the Deputy Chief Executive (Corporate Development) and S151, to agree the contractual matters (including the terms and conditions which may represent a minor variation to the scheme approved in the business case) such as signing the contract/transfer document and other incidental actions that may be required, and approving the associated due diligence and valuation required to purchase the properties, and to identify this scheme as a named scheme in the capital programme, in accordance with the approved budget.

## REASONS FOR RECOMMENDATIONS

1. To enable new affordable homes to be delivered which meet identified housing need in the district.
2. To provide a return on investment as set out in the financial evaluation provided at Appendix A.
3. To replace homes sold to tenants via Right To Buy.

## OTHER OPTIONS CONSIDERED

### 1. Do nothing.

In this event the authority would not proceed to purchase the properties. As a consequence, the expected benefits set out in section 5 of this report, would not be realised. Officers would seek to identify alternative, appropriate schemes for consideration by the Executive or Council.

## 1. BACKGROUND

- 1.1 In the last 6/7 years, South Holland District Council (SHDC) has increased investment in new housing within the district and more recently, has strengthened the capacity of the Housing Delivery team. This team appraises potential acquisition and development schemes, project manages on-site delivery, and oversees the handover of new homes into management for SHDC's various delivery vehicles.
- 1.2 Since 2017/18, the authority has supported a number of housing development schemes:
  - 39 market rented homes delivered for Welland Homes.
  - Purchase and refurbishment of existing housing to create 9 units of shared accommodation delivered via the Next Steps Accommodation Programme.
  - Purchase and refurbishment of existing housing to create 6 units of self-contained accommodation delivered via the Rough Sleepers Accommodation Programme.

- 71 new affordable homes delivered for the HRA via design & build projects, S106 acquisitions and market acquisitions.
- 7 S106 affordable homes approved under a contract with a developer, due to complete within the next 12 months.

1.3 The Housing Delivery team has been seeking new development opportunities. This has involved liaising with agents, property developers and housing associates that are delivery mixed-tenure schemes within the district. Through these discussions, a new scheme to provide 18 S106 affordable homes in Holbeach, has been identified.

## 2. SCHEME BUSINESS CASE

2.1 Officers have liaised with a developer regarding the acquisition of 18 affordable dwellings on the development site at Northons Lane, Holbeach. An offer for the 18 dwellings has been submitted and accepted by the developer.

2.2 The 18 affordable homes comprise four 1-bedroom flats, nine 2-bedroom houses and five 3-bedroom houses

2.3 The scheme has planning consent and accordingly the layout and mix of dwellings and tenures has been approved by SHDC.

2.4 As the homes have been designated as affordable homes in the planning consent, they have been designed specifically for that purpose and accordingly are considered appropriate for the HRA. As part of the planning consultation process, the authority's Housing Strategy & Enabling Officer provided comments on the proposed affordable housing mix to ensure it will meet local housing need.

2.5 The SHDC Housing Management team have been consulted regarding the scheme and are supportive of SHDC taking additional homes in this location. They have indicated that the delivery of these homes will replace homes lost through Right To Buy (RTB) sales.

2.6 Accelerating the delivery of new homes for the HRA will mitigate the impact on the HRA business plan of the loss of homes through RTB sales. However, it should be noted that if these properties are purchased and let as affordable homes, the RTB 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.

2.7 The details of the 18 homes at the centre of this business case are detailed in the table below.

Plot	Property type	Tenure	Parking	Completion date*
6	2-bedroom house	Affordable Rent	2 spaces	Aug-23
7	3-bedroom house	Affordable Rent	2 spaces	Aug-23
78	2-bedroom house	Affordable Rent	2 spaces	Oct-23
79	2-bedroom house	Affordable Rent	2 spaces	Oct-23
74	2-bedroom house	Affordable Rent	2 spaces	Nov-23
75	2-bedroom house	Affordable Rent	2 spaces	Nov-23
45	2-bedroom house	Affordable Rent	2 spaces	Feb-24

46	3-bedroom house	Affordable Rent	2 spaces	Feb-24
68	2-bedroom house	Affordable Rent	2 spaces	Apr-24
69	3-bedroom house	Affordable Rent	2 spaces	Apr-24
29	2-bedroom house	Affordable Rent	2 spaces	Jan-25
30	3-bedroom house	Affordable Rent	2 spaces	Jan-25
31	1-bedroom flat	Affordable Rent	1 space	Feb-25
32	1-bedroom flat	Affordable Rent	1 space	Feb-25
33	1-bedroom flat	Affordable Rent	1 space	Feb-25
34	1-bedroom flat	Affordable Rent	1 space	Feb-25
19	2-bedroom house	Affordable Rent	2 spaces	Mar-25
20	3-bedroom house	Affordable Rent	2 spaces	Mar-25

\*Developer anticipated programme subject to confirmation.

- 2.8 Officers have undertaken a business planning exercise for the delivery of these 18 homes which is provided as a financial evaluation at Appendix A.
- 2.9 An offer has been made to the developer subject to valuation, contract, legal due diligence, and full approval. This offer has been accepted.
- 2.10 A formal valuation will be undertaken on these units by a RICS accredited valuer, prior to purchase. In the event that the valuation does not support the price agreed for the units, officers will seek to renegotiate the purchase price, in the best interests of the authority. The final contractual price will be subject to approval by Deputy Chief Executive (Corporate Development) and S151.
- 2.11 The financial evaluation assumes that the 18 homes will be provided as Affordable Rent tenure and let at the Local Housing Allowance (LHA). In accordance with the S106 agreement, at the time of letting, the rent charged could be equivalent to LHA or 80% of the value of market rents. The rents will be established at the time of letting, informed by a RICS valuation. Homes England stipulate a requirement to approve Affordable Rents being charged on any site which is not grant funded. This consent will be sought from Homes England as part of the due diligence process and is likely to be forthcoming (based on experiences of other similar requests). The S106 agreement allows the rented homes to be provided as Affordable Rent or Social Rent tenure. 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 section 7.6.3 of this report.
- 2.12 In terms of the Capital Programme for HRA Housing Development, there is total approved provision of £18m for schemes subject to detailed approval for the period 2022/23 to 2026/27. To date no other HRA schemes have been approved. Accordingly, there is still sufficient financial capacity to deliver this project.
- 2.13 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, prior to entering contract.

- 2.14 It is anticipated that the authority will initially exchange contracts on all 18 homes, upon payment of a deposit. Thereafter, the authority will complete on individual tranches of affordable homes, as they practically complete. The indicative timeframe for delivery is shown in section 2.7 of this report.
- 2.15 Given the nature of the homes as S106 affordable housing, the authority will have limited influence over the style and construction methodology of the properties. However, a specification will be agreed as part of the contract negotiations the homes will be delivered in accordance with the contract and with all appropriate regulatory certification in place. In addition, the properties will benefit from a NHBC warranty for a minimum of 10 years. These key documents will be listed within the contract and will need to be provided prior to completion taking place. The quality of the homes, and compliance with the contract, will also be checked by a Buyers Representative appointed to act in the authority's best interests.
- 2.16 In the event, that the homes are not constructed in accordance with the terms of the contract, the authority will not have to purchase the homes. 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. The 10-year warranty will provide additional assurance.
- 2.17 The developer has commenced on site with enabling works and has confirmed that the homes will be constructed using traditional construction techniques. Officers did request that SHDC's Building Control team was appointed to undertake building inspections. However, the developer has advised that NHBC will be inspecting the site.
- 2.18 The contract is a negotiation between both parties. The process of due diligence may impact contract negotiations as more information is identified about the scheme. 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 wider development consists of 103 homes, roadways and open space. The developer has indicated a management company will be established for the site. As part of the due diligence process, officers will establish whether roads are to be adopted and what is included within the management company's remit. An allowance has been made in the financial evaluation for management company costs.
- 2.20 The S.106 agreement for this site also requires the provision of 8 shared ownership dwellings. The developer has advised officers that they have reached an agreement with another provider who will purchase the shared ownership dwellings. Therefore, this business case relates only to the purchase of S106 rented dwellings on the site.

### **3.0 RIGHT TO BUY SALE RECEIPTS**

- 3.1 In March 2021, Government published its response to a consultation on the use of receipts from RTB sales. The consultation response set out changes to the use of RTB receipts.
- 3.2 The changes included 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; and introducing a cap on the use of RTB receipts for acquisition projects.

3.3 The business case provides the return on investment assuming that RTB receipts are not utilised for purchasing these units. Any decision to utilise RTB receipts, or not, is incidental activity which is delegated to Deputy Chief Executive (Corporate Development) and S151, to approve. In the event that RTB receipts are utilised for the delivery of this project, this will have a positive impact on the return on investment set out in Appendix A as the direct capital investment decreases.

#### **4.0 HOUSING NEED**

4.1 New affordable homes contribute towards meeting housing need in the district.

4.2 The Strategic Housing Market Assessment identifies a need for 282 new affordable homes to be provided in the district each year.

4.3 On average 105 new affordable homes (including rented and shared ownership) have been provided in the district each year (2016/17 to 2021/22) by SHDC and other Registered Providers. Between 1st April 2021 and 31st March 2022, there were 296 affordable housing completions in the district, 170 of which were available for rent.

4.4 It is anticipated that the demand for affordable housing will continue to increase. The SHDC Housing Allocations and Lettings Policy has been updated to reflect the changing housing landscape nationally and locally, in response to Covid-19 and the Homeless Reduction Act.

4.5 Analysis of the SHDC Housing Register indicates that there were 424 households on the housing register in June 2022.

4.6 As of June 2022, the housing register indicates that 45 applicants need 1-bedroom accommodation, 28 applicants need 2-bedroom accommodation and 31 applicants need 3-bedroom accommodation, and all have a preference to live in Holbeach

#### **5. CONCLUSION**

5.1 The delivery of 18 affordable homes on this site will support the Council's objective to deliver more Council owned housing. The homes will meet identified housing need. The developer has accepted an offer for SHDC to purchase the homes. Extensive due diligence will be undertaken prior to entering into contract. The delivery of 18 rented homes will replace homes sold to tenants via RTB. This project has been financially modelled based on the assumptions set out in this business case, and shows that the scheme will provide a return on investment.

#### **6. EXPECTED BENEFITS TO THE PARTNERSHIP**

6.1 The recommendations will support the aims and ambitions of the South and East Lincolnshire Council's Partnership which include to deliver ambitious growth and regeneration plans. The partnership's Annual Delivery Plan 2022/23 includes the delivery of Council-owned new properties in South Holland.

#### **7. IMPLICATIONS**

##### **7.1 SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP**

7.1.1 None

## **7.2 CORPORATE PRIORITIES**

7.2.1 The SHDC Corporate Plan 2019-23 sets out the Council's vision for the district and its priorities for this period.

7.2.2 This project will support the agreed vision and priorities of the Plan, including:

- Maintain our commitment to Council Housing by building new council homes to replace those that have been lost.
- Providing good-quality housing that everyone in our community can call their home.
- Work to prevent and mitigate homelessness.
- Enable effective planning and delivery of housing solutions to meet local needs and aspirations to ensure that our residents have access to a range of housing options in the district.
- Ensure that our residents are enabled to live in high quality housing no matter the tenure.
- Deliver substantial and continued growth as proposed through our Local Plan.

## **7.3 STAFFING**

7.3.1 None.

## **7.4 CONSTITUTIONAL AND LEGAL IMPLICATIONS**

7.4.1 The authority will be acquiring these units in accordance with section 9 of the Housing Act 1985.

7.4.2 In November 2021, the HRA Housing Delivery Framework was adopted by Council. The framework relates to any investment decisions utilising the 'HRA Capital Programme budget for Housing Development – schemes subject to detailed approval'. All HRA housing delivery projects which meet the criteria within the framework can be approved by the Executive, subject to a detailed business case. This proposal is considered to be outside of the criteria of the framework due to the value of the total scheme costs.

7.4.3 As per previous S106 acquisitions, the legal support for the contract negotiations and purchase will be provided by an external firm.

## **7.5 DATA PROTECTION**

7.5.1 None

## **7.6 FINANCIAL**

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

7.6.2 In terms of financial capacity, there is a total approved capital provision of £18m in the Capital Programme for the acquisition of new affordable homes by the HRA, for the period 2022/23 to 2026/27.

7.6.3 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.

7.6.4 As part of the scheme due diligence, a RICS valuation will be sought to indicate the value of the properties. The Deputy Chief Executive (Corporate Development) and S151 will be delegated authority to agree the final purchase price.

7.6.5 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.

## **7.7 RISK MANAGEMENT**

7.7.1 Acquisition and development activity has within it inherent risks. Officers strive to identify and manage risk at each stage of the project.

7.7.2 Each project has a risk register that is reviewed throughout the lifecycle of a project by the project team.

7.7.3 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.

## **7.8 STAKEHOLDER / CONSULTATION / TIMESCALES**

7.8.1 Ward members have been informed of the proposal to purchase these properties and have not raised any objections.

7.8.2 The delivery timetable will be reviewed once final scheme approval is in place. However, the indicative timetable is as shown in section 2.7 of this report.

7.8.3 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, whilst not grant-funded units, Homes England are a stakeholder in this acquisition. Consent has been provided to SHDC, by Homes England, for other S106 schemes which have been delivered by the authority.

## **7.9 REPUTATION**

7.9.1 Risks around reputation are mitigated through a robust project management structure. The Housing Delivery 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.

## **7.10 CONTRACTS**

7.10.1 A contract will be required between SHDC and the developer. The handover of each property will take place in tranches, as the homes are ready to be occupied. 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 Buyers Representative to provide quality assurance at handover.

7.10.2 The contract will be reviewed by the Council’s appointed external legal representative.

7.10.3 As per the recommendation, the Deputy Chief Executive (Corporate Development) and S151 will be delegated authority to agree the contractual matters such as signing the contract/transfer document, approving the associated due diligence and valuation required to purchase the properties, and any incidental actions that may be required.

## **7.11 CRIME AND DISORDER**

7.11.1 None

## **7.12 EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING**

7.12.1 The delivery of 18 rented homes for the HRA will enhance equality within the district and support the Corporate Plan ambition to ensure that residents are enabled to live in high quality housing no matter the tenure.

## **7.13 HEALTH AND WELL BEING**

7.13.1 This project and the continued delivery of new council-owned homes will deliver housing solutions to meet local needs and aspirations. This will contribute towards improving health and wellbeing in the district by ensuring that residents have access to a range of housing options in the district and are enabled to live in high quality housing.

## **7.14 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

7.14.1 The homes will be delivered in accordance with the appropriate building regulations relating to sustainable construction. At handover, each property will have an energy performance certificate illustrating the energy efficiency of the property and the efficiency rating.

## **7.15 LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER**

<b>MISSIONS</b>	
<b>This paper contributes to the follow Missions outlined in the Government’s Levelling Up White paper.</b>	
<b>Housing</b>	By 2030, renters will have a secure path to ownership with the number of first-time buyers increasing in all areas; and the government’s ambition is for the number of non-decent rented homes to have fallen by 50%, with the biggest improvements in the lowest performing areas.

## **8. ACRONYMS**

8.1 HRA – Housing Revenue Account

LHA – Local Housing Allowance

RICS – Royal Institution of Chartered Surveyors

RTB – Right To Buy

**APPENDICES**

Appendices are listed below and attached to the back of the report: -

APPENDIX A	Financial Evaluation - Exempt
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**BACKGROUND PAPERS**

None

**CHRONOLOGICAL HISTORY OF THIS REPORT**

A report on this item has not been previously considered by a Council body.

**REPORT APPROVAL**

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