



<b>REPORT TO:</b>	Portfolio Holder for Assets & Planning
<b>REPORT OF:</b>	Assistant Director - Strategic Growth and Development
<b>REPORT AUTHOR:</b>	Caroline Hannon, Head of Delivery
<b>SUBJECT:</b>	Purchase of 3 affordable homes in Moulton Chapel
<b>PURPOSE:</b>	To set out details of the potential for the authority to acquire 3 S106 affordable homes on a development site in the district.
<b>KEY DECISION:</b>	Y
<b>WARD(S) AFFECTED:</b>	All Wards
<b>EXEMPT REPORT?</b>	Yes. This report is exempt by virtue of paragraph 3 of Schedule 12A of the Local Government Act 1972 because it contains information relating to commercially sensitive 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 Moulton Chapel, a scheme has been identified for SHDC to purchase 3 S106 affordable homes. Two of the homes will all be for rented tenure and one will be for shared ownership. The property types comprise 2 bedroom houses which will be ready for occupation in phases between June and September 2023. 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 (RTB).

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. This scheme is within the remit of the framework.

## RECOMMENDATIONS

1. To approve the business case and approve the acquisition of 3 affordable homes within Moulton Chapel, 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 documents 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.
4. To deliver housing solutions which meet local needs and aspirations to ensure that our residents have access to a range of housing options in the district.

## **OTHER OPTIONS CONSIDERED**

Do nothing. In this event, the authority would not proceed to purchase the properties. As a consequence, the expected benefits set out in the Reasons for Recommendations section 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.
  - 73 new affordable homes delivered for the HRA via design & build projects, S106 acquisitions and market acquisitions.
  - 8 S106 affordable homes approved under a contract with a developer, due to complete within the next 12 months.
  - Formal approval to enter into contract with two developers to purchase 28 S106 rented homes, in Holbeach and Gosberton
- 1.3 The Housing Delivery team has been seeking new development opportunities. This has involved liaising with agents, property developers and housing associations that are delivering mixed-tenure schemes within the district. Through these discussions, a new scheme to provide three S106 affordable homes in Moulton Chapel, has been identified.

## 2. REPORT

- 2.1 Officers have liaised with a developer regarding the acquisition of 3 affordable dwellings on the development site off Roman Road, Moulton Chapel. An offer for the 3 dwellings has been submitted to, and accepted by, the developer. Welland Homes has also made an offer to acquire 4 adjacent market dwellings located nearby (which are subject to a separate Portfolio Holder decision report).
- 2.2 The 3 affordable homes comprise 2-bedroom houses. The wider development consists of 58 homes, roadways and open space. The main roads are due to be adopted by the relevant authority. However, some of the minor roadways, including the roadway leading to these affordable plots, will not be adopted and will instead be in the ownership of the management company. The developer has indicated that the management company will also have responsibility for the open space and for the administering of the LPG gas supply to the estate. An allowance has been made in the financial evaluation for management company costs.
- 2.3 The scheme has planning consent (H13-1096-19) 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 was consulted on the proposed affordable housing mix to ensure it meets 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 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 3 homes at the centre of this business case are detailed in the table below.

Plot	Property type	Tenure	Parking	Completion date*
25	2-bedroom semi-detached house	Shared ownership	2 spaces	June 2023
26	2-bedroom semi-detached house	Rented	2 spaces	September 2023
27	2 -bedroom semi-detached house	Rented	2 spaces	September 2023

\*Developer anticipated programme subject to confirmation.

- 2.8 Officers have undertaken a business planning exercise for the delivery of these 3 homes which is provided as a financial evaluation at Appendix A.
- 2.9 In terms of the Capital Programme for HRA Housing Development, there is total approved provision of c.£18m for schemes subject to detailed approval for the period 2022/23 to 2026/27. To date, two other HRA scheme has been approved (one in Holbeach and one in Gosberton), however, there is still sufficient financial capacity to deliver this project.
- 2.10 An offer has been made to the developer subject to contract, legal due diligence, and full approval. This offer has been accepted.
- 2.11 A formal valuation has been prepared for these houses, by a RICS accredited valuer, to corroborate the proposed purchase price set out in Appendix A. As part of the due diligence process, any variation to this price will be subject to approval by Deputy Chief Executive (Corporate Development) and S151.
- 2.12 The financial evaluation assumes that the two rented homes will be provided as Affordable Rent tenure. The S106 agreement allows the rented homes to be provided as Affordable Rent or Social Rent tenure. 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). 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 will impact the financial performance of the scheme, as set out in section 9.6.4 of this report.
- 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 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. The contract will include a specification for the homes and the nature of the warranty. It will require all appropriate regulatory certification to be in place and these key documents will be included in the contract and will need to be provided.
- 2.15 The offer price has been accepted on the basis of the authority making stage payments for the homes. Although SHDC has not previously purchased S106 homes via staged payments, this is an industry standard contractual arrangement. The specific details of the stage payments will be set out in the contract and are summarised in Section 3 of this report.

- 2.21 Building inspections are being undertaken by SHDC's Building Control team which provides an additional layer of scrutiny over the build standard. Additionally, the homes will be handed over with the benefit of a 10-year warranty. The warranty is being provided by Build-Zone. Build-Zone has been providing structural warranties since 2003 and is believed to be a major supplier in the provision of structural warranty products in the United Kingdom. It is understood that Build-Zone is accepted by most UK lenders. Like NHBC, Build-Zone is a two-year builder warranty, with defects insurance between years three and ten. The Build-Zone warranty benefits from a full technical review and on-site inspections. Officers are aware of other local authorities which have utilised Build-Zone warranties for their completed dwellings.
- 2.22 LPG tanks will be installed beneath the open space (which is owned by the management company). Gas fired combi boilers will be installed in the properties and heating will be provided via radiators.

### **3.0 PURCHASE ROUTE**

- 3.1 SHDC will purchase completed dwellings from the developer. A price has been agreed with the developer on the basis that SHDC will pay stage payments.
- 3.2 SHDC will initially purchase land from the developer, prior to making payments for the construction of the dwellings on that land. A valuer will be appointed to confirm the cost attributed to the land purchase and an Employer's Agent will be appointed to confirm the value of each of the staged payments.
- 3.3 The agreement regarding stage payments is subject to further due diligence and contract. However, the payments to the developer will always be paid in arrears (so SHDC will only pay for work once completed and subject to the Employer's Agent confirming that the cost is appropriate, and the work is completed satisfactorily).
- 3.4 An *indicative* method for stage payments is summarised below:
- SHDC will appoint a solicitor.
  - Extensive due diligence will be undertaken alongside contract negotiations. This will include the land value being verified by a Red Book valuation and agreed with the developer as part of the contract negotiations. The valuer will also be appointed to indicate the Red Book valuation of the completed houses. A schedule of payments for the construction of the properties will be negotiated with the developer based on the fixed purchase price. An Employer's Agent will be appointed to advise on the appropriate construction milestones for each payment stage and the value of the works that will be payable when each milestone stage is completed. A process will also be agreed for the developer to request the payment for each completed stage, with a requirement for independent verification that all works in that stage have been completed before monies are released.
  - The contract will include a longstop date for practical completion. This will ensure that the contract price is based on a current valuation.
  - Once the appropriate terms for a land and build style contract have been drafted, both the contract and due diligence will be signed off by the S151 Officer.
  - Once due diligence has been signed off, SHDC will exchange contracts with the developer using a land and build style contract. From this point, SHDC has control of the scheme thereby preventing the developer from selling the homes to another party.

- A stakeholder deposit will be paid upon exchange of contracts. This will be held by SHDC's appointed solicitor until the developer has satisfied criteria agreed in the contract to enable SHDC to purchase the land.
- The criteria to enable SHDC to purchase the land is that the developer has built each of the three dwellings to one brick course above damp proof course level. Additionally, the developer will have constructed the roads and footpaths to the homes to base course level with the necessary services and drainage having been installed, along with street lighting.
- Once the developer has satisfied the criteria to enable SHDC to purchase the land, the deposit will be released by the solicitor, to the developer. (The deposit would be returned to SHDC if the conditions of the contract are not satisfied and SHDC would be released from the contract and would not acquire the land or dwellings.) Additionally, at this point, SHDC will also purchase the land from the developer.
- Once completion of the land has occurred, the land will be owned by SHDC. Under the terms of the contract, the developer will be obliged to complete construction of the dwellings to the agreed standards and specification.
- In accordance with the contract, SHDC will pay the developer once each construction phase is completed. An Employer's Agent will verify that the relevant works have been carried out to an acceptable standard prior to any payment being released.
- Construction of these three plots is already underway. Therefore, it is highly likely that an instalment payment for the foundations will become due immediately following acquisition of the land because the construction milestone set out in the contract will have been reached. The payment will be verified by the Employers Agent to confirm the works have been completed satisfactorily.
- Payments for subsequent stages of the construction will become due when milestones agreed in the schedule of payments are reached. Examples of stages that could be agreed include completion of the roof; completion of construction to 'second fix' (this is when the main construction is complete, and the property has been plastered); when the build and internal fittings are complete (practical completion). When each stage is completed and verified by the Employers Agent to confirm the works have been completed satisfactorily SHDC will make a contract payment.

3.5 Land and build deals, as described above, are commonplace. The benefits include providing cashflow for the developer and a number of advantages for the purchaser, including:

- Early engagement on specification and programme.
- Fixed purchase price.
- The nature of a land and build contract, as opposed to a JCT contract, is that there is a fixed-price contract and the authority will not be required to fund any scheme variations which may become necessary.
- Exchanging contracts early in the process (in comparison to an off the shelf purchase) will provide certainty to the authority that the developer cannot sell the homes to an alternative housing provider, and thus reduce the risk of abortive work by the authority.
- Relatively straightforward legal agreement widely used in the industry which does not require the use of a complex JCT contract which can be costly to produce and administer.

3.6 Some of the key implications of this purchase route (which have been factored into the financial evaluation) include:

- SHDC will pay Stamp Duty Land Tax on the value of the plot when it transfers to the authority, which will be lower than the rate if the company purchased a completed dwelling.

- The land will transfer to SHDC upon payment of the first instalment. In the event that the developer does not complete the build, SDHC (as land-owner) will have to appoint a new contractor to complete the build. This creates a financial uncertainty around costs and delivery timescales. The financial evaluation includes a contingency sum.

## **1.0 SHARED OWNERSHIP SALES**

- 1.1 The proposed acquisition includes one shared ownership property. The authority has already approved the delivery of 30 shared ownership properties on other sites across the district which have been selling well. Officer delegations relating to the sale of shared ownership properties are set out in paragraph 9.4.4 of this report.
- 1.2 The specialisms surrounding the marketing and sale of the shared ownership homes is provided by an external agent. A new partner for this contract is currently being identified, following a full procurement exercise
- 1.3 The financial appraisal provided at Appendix A assumes an initial sale tranche of 35% of the value of the shared ownership dwellings.
- 1.4 The purchaser of any Shared Ownership property is required to buy as much of an initial share as they can afford and as such if the purchasers can afford more, a larger tranche will be sold to them resulting in additional cash receipts at initial sale and an improvement on the financial performance of the scheme. Additionally, if purchasers cannot afford a 35% initial share, they will be able to purchase 10% or more of the market value.
- 1.5 This site is in the civil parish of Moulton which is within a Designated Protected Area. However, as the authority will not be seeking Homes England capital grant funding, it is not necessary to apply to Homes England for a waiver to enable the purchasers of any shared ownership homes to staircase to full home ownership. Accordingly, the lease agreement will enable the purchasers of the shared ownership homes to staircase to full home ownership in due course.
- 1.6 It is recognised that the value of the units will fluctuate through the life of the project, just as the housing market fluctuates. A valuation will be carried out at various points: prior to purchase; at completion of shared ownership properties if required; and annually once the homes are in ownership to ensure that officers monitor the assets in a robust manner. The offer for this shared ownership property has been based on a formal valuation that has been received and reviewed.
- 1.7 For rented units the findings of a valuation do not impact on the return generated by the units because the open market value of the units is not part of the appraisal inputs. However, for the Shared ownership homes, the open market values will impact on the sale price of the homes and subsequently, the income received through the shared ownership rental stream (as this is determined by the unsold equity).
- 1.8 A new model for Shared Ownership was introduced for some homes, during 2021. The new model lease comes with a 10-year repairs and maintenance period during which landlords will assist owners with costs of up to £500 a year, rolled over for one year. Only after 10 years will the shared owner take on full responsibility for any repairs and maintenance costs. However, the new model lease only applies to homes funded through Homes England's Affordable Homes Programme 2021-26 or those homes secured through S106 agreements

for completely new permissions granted from 28 December 2021 (or from 28 March 2022 where there has been significant pre-planning engagement).

- 1.9 The homes on this site are not funded via Homes England's Affordable Homes Programme 2021-26 and were granted planning consent prior to 28<sup>th</sup> December 2021. Accordingly, the new model lease is not required to be used for these shared ownership homes.
- 1.10 Whilst it is proposed that this project will be delivered on the existing shared ownership model, there is a risk that the delivery of shared ownership homes on other sites which are based on the 'new' version of shared ownership may be more desirable to prospective purchasers. This could impact the desirability of this home which is built under the existing shared ownership model.
- 1.11 Sale of the shared ownership dwellings is dependent upon timely registration of SHDC's ownership of the homes, by the Land Registry, upon completion of the acquisition. Delays with registration have been experienced previously. In order to mitigate this potential external delay, officers will seek to submit the application to register the sale immediately following purchase. If a dwelling has been reserved there is a route by which a request can be made to expedite the application at the Land Registry, and this will be requested if appropriate. This then gives time for the registration to occur concurrently with the onward conveyancing to identified purchasers.
- 1.12 It is anticipated that many of the potential purchasers of the shared ownership dwellings will require a mortgage, and any uncertainties in the financial sector create a risk for this project. Officers will ensure early marketing of the shared ownership dwellings to support the prompt onward sale of the properties. Additionally, interest in the shared ownership property and subsequent reservations will be closely monitored. In the event that prospective purchasers are unable to secure mortgages enabling them to complete the purchase, officers may explore alternative uses for the property, including requesting a variation to the S106 agreement to alter the tenure to a rented tenure. Any such incidental action will be delegated to the Deputy Chief Executive (Corporate Development) and S151, to approve.

## **5.0 RIGHT TO BUY SALE RECEIPTS**

- 5.1 In 2021, Government announced reforms relating to the use of RTB receipts. 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.
- 5.2 At the end of each financial year, the authority will confirm which development projects will benefit from the RTB receipts. Decisions will be made to ensure that the receipts are spent as quickly and efficiently as possible to prevent any receipts having to be returned to Government. Any decision to utilise RTB receipts, or not, is incidental activity which is delegated to Deputy Chief Executive (Corporate Development) and S151, to approve.
- 5.3 This business case (and financial evaluation provided at Appendix A) provides the return on investment for this scheme assuming that RTB receipts are not utilised for purchasing these units. However, 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.



## **6.0 HOUSING NEED**

- 6.1 New affordable homes contribute towards meeting housing need in the district.
- 6.2 The Strategic Housing Market Assessment identifies a need for 282 new affordable homes to be provided in the district each year.
- 6.3 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. Around 150 new affordable homes are due to complete during 2022/23 including a range of tenures such as affordable homes for rent, Rent To Buy homes and shared ownership homes.
- 6.4 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 the impact of the coronavirus pandemic and the Homeless Reduction Act.
- 6.5 Analysis of the SHDC Housing Register indicates that there were 396 households on the housing register in February 2023 requiring General Needs accommodation.
- 6.6 As of February 2023, the housing register indicates that 19 applicants need 2-bedroom accommodation and have a preference to live in Moulton Chapel.

## **7.0 CONCLUSION**

- 7.1 The delivery of 3 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 SHDC's offer to purchase the homes. Extensive due diligence will be undertaken prior to entering into contract. The delivery of 2 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.

## **8.0 EXPECTED BENEFITS TO THE PARTNERSHIP**

- 8.1 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.

## **9. IMPLICATIONS**

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

- 9.1.1 None

### **9.2 CORPORATE PRIORITIES**

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

- 9.2.2 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.

### **9.3 STAFFING**

9.3.1 None

### **9.4 CONSTITUTIONAL AND LEGAL IMPLICATIONS**

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

9.4.2 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 within the criteria of the framework.

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

9.4.4 As per the decision of the Portfolio Holder for HRA and Private Sector Housing regarding Shared Ownership sales, which became effective from 3<sup>rd</sup> September 2019, the following delegations regarding Shared Ownership sales are already in place and will apply to this scheme:

- That authority be delegated to officers to fulfil all necessary activities concerning initial sales, purchase of additional shares and resales of individual shared ownership properties to leaseholders.
- That authority be delegated to the Executive Manager – Property and Development (*now Assistant Director – Strategic Projects*), to agree the value of shared ownership properties at initial sale, resale, and acquisition of additional shares.
- That authority be delegated to the Executive Manager – Governance (*now Assistant Director - Governance*) to approve and sign any mortgage offer.
- That authority be delegated to the Senior Legal Officer (as defined in the Constitution - currently the Assistant Director – Governance) and any officer authorised by the Assistant Director – Governance, to sign any contracts/agreements which form part of the Shared Ownership sale and stair-casing procedures which are not under seal.

9.4.5 Given the nature of the proposed contract, detailed legal advice will be obtained. This will ensure the contracts protects the council's interests such as in the event that the developer fails to deliver the homes in accordance with the specification.

## **9.5 DATA PROTECTION**

9.5.1 None

## **9.6 FINANCIAL**

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

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

9.6.3 A RICS valuation has been 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.

9.6.4 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. The rental income for social rented housing is lower than for Affordable rent properties. 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.

9.6.5 In the event that the onward sale of the shared ownership properties is affected by the any financial uncertainties and the availability of mortgages, a request may be made to amend the S106 Planning agreement to alter the tenure of the shared ownership house to an affordable rented tenure. Sensitivity analysis has been prepared which confirms that the scheme will still make a positive return if all three homes are delivered as rented units.

9.6.6 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.

9.6.7 A credit check on the developer will be undertaken prior to entering into contract. The results will be included within the due diligence pack to be signed off by Deputy Chief Executive (Corporate Development) and S151.

## **9.7 RISK MANAGEMENT**

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

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

9.7.3 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.

9.7.4 There are specific risks associated with the delivery of shared ownership. A review of these was summarised in Portfolio Holder decision which became effective from 3<sup>rd</sup> September 2019. That decision report reviewed the risks associated with shared ownership including:

- If a leaseholder secures a mortgage on a property it will be the first charge. In the event of mortgage default, the lender can repossess the property and sell its leasehold and/or freehold interest in the property and can offset their reasonable expenses against the price they pay to the authority for the Council's remaining shares. The maximum claim is the lower of the outstanding mortgage debt (including costs, interest, and any rent paid by the lender) or the total of the Council's share. Any shortfall remains a debt owed to the authority by the leaseholder.

**Mitigation:** Full affordability assessments will be undertaken to ensure the purchaser can afford the property prior to purchase. Additionally, the authority can signpost the occupier to the Housing Advice team or external money advice services to prevent the threat of possession action.

- As prices fluctuate the value of SHDC's assets will change and some homes will cease to be shared ownership dwellings if the occupier purchases additional shares in the property up to 100% including freehold.

**Mitigation:** For each sale, staircase or resale, a reassessment of the value of the property will be undertaken to determine the appropriate sale price. Officers will obtain expert valuations to determine the appropriate value and ensure the authority receives the appropriate return in accordance with the business plan.

- Following negotiation, the authority and potential purchaser may be unable to agree the value of the property and accordingly officers may decline a potential purchaser's offer to acquire a property.

**Mitigation:** Officers will obtain expert valuations to determine the appropriate value and ensure the authority receives the best return value.

- A sale price which is lower than assumed in the business case may be agreed and this could affect the return on investment.

**Mitigation:** Officers will obtain independent property valuations to determine the appropriate value of each home on sale or resale.

9.7.5 As part of the Portfolio Holder decision report (Sept 19), a series of delegations to officers (set out in section 9.4.4 of this report) were agreed in order to reduce any risk by ensuring review at each stage of the process.

9.7.6 Officers are ensuring that the increasing number of shared ownership homes owned by SHDC, is monitored as part of the approval process for each new sale and that any learning from other sales is carried forward.

9.7.7 As set out in section 4.12 of this report, the current financial uncertainties also create a risk in relation to the shared ownership dwellings. Officers will monitor the rate of sales and report regularly to relevant Portfolio Holders.

9.7.8 The nature of this contractual arrangement (SHDC will purchase the land and the developer will then be contracted to complete the build) comes with a greater risk profile than an 'off the shelf' acquisition. The key additional risk in this scenario is in the event that the developer fails to complete the build and an alternative contractor needs to be appointed to complete the build. This creates a risk to the timescales for delivery and will delay rental income being received. It also creates a risk for the assumed cost of the works because an alternative contractor might charge a different amount. The financial evaluation includes a contingency amount which would be used if this, or any other unforeseen incidence arise. However, thorough due diligence will be undertaken prior to entering into the contract to seek to mitigate any risk.

## **9.8 STAKEHOLDER / CONSULTATION / TIMESCALES**

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

9.8.2 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.

9.8.3 As two of 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 these are not grant-funded units, Homes England is 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.

## **9.9 REPUTATION**

9.9.1 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.

## **9.10 CONTRACTS**

9.10.1 A contract will be required between SHDC and the developer. The contract will contain a list of requirements and the final instalment payments for the homes will not be made until these requirements have been met. Additionally, SHDC will appoint an Employer's Agent to support the drafting of the contract to ensure it is robust and protects the authority's interests.

9.10.2 The contract will be reviewed by the Council's appointed external legal representative.

9.10.3 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.

9.10.4 The Assistant Director – Governance has been delegated authority to approve and sign any mortgage offer and to sign any contracts/agreements which form part of the Shared Ownership sale and stair-casing procedures which are not under seal.

9.10.5 It is anticipated that the HRA and Welland Homes will simultaneously enter into contract with the developer, securing the delivery of 7 homes in total.

#### **9.11 CRIME AND DISORDER**

9.11.1 None

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

9.12.1 The delivery of 3 affordable 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.

#### **9.13 HEALTH AND WELL BEING**

9.13.1 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.

#### **9.14 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

9.14.1 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.

#### **9.15 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.

### **10.0 ACRONYMS**

- 10.1 HRA – Housing Revenue Account
- LHA – Local Housing Allowance
- RICS – Royal Institute of Chartered Surveyors
- RTB – Right To Buy
- SHDC – South Holland District Council

**APPENDICES**

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

APPENDIX A

Financial Evaluation

**BACKGROUND PAPERS**

No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

**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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