

Report for: **Cabinet Member Signing**
Title: **New lease arrangements for modular homes**
Lead Officer: **Assistant Director for Capital Projects & Property**
Ward(s) affected: **Seven Sisters**
Report for Key/
Non-Key Decision: **Non-Key Decision**

1. Describe the issue under consideration

- 1.1. Olive Morris Court is a site of 33 modular units constructed on Council owned land. The scheme provides accommodation for people previously sleeping rough as supported housing and office space to provide on-site support and security.
- 1.2. Ownership of the units is split between the Council who own 17 units, and Haringey Community Benefit Society (HCBS) who own the remaining 16 units. The 16 units owned by the Council were leased to the HCBS so that the HCBS would manage the entire estate. One unit was retained by the Council to provide Council delivered support and security. The Council intended to grant to the HCBS a lease of the land on which the units are installed ("the Land"), but this lease has not been completed.
- 1.3. The Greater London Authority (GLA) approved a total grant of £1,767,237 for the delivery of the 32 homes at Olive Morris Court, with £1,325,428 received so far and a further £441,809 to be paid on completion. These payments are dependent on the immediate landlord being either the Council or another Registered Provider. However, as the HCBS is not a Registered Provider the capital funding received so far will be clawed back, and the Council will not be able to claim the remainder of the capital grant, unless alternative arrangements can be made.
- 1.4. This report is seeking authorisation for the Council to accept from the HCBS a surrender of the current lease of the 16 Council owned units and for the Council to enter into a new lease for the 16 HCBS owned units and not to proceed with the lease of the Land. This proposal would both meet the GLA funding requirements and also increase the level of housing benefits payable for these homes.

2. Recommendations

- 2.1. It is recommended that the Cabinet Member for Council House-Building, Placemaking and Development agrees:
 - a) That the Council accept a surrender of the Lease dated 8 November 2021 from the London Borough of Haringey to Haringey Community Benefit Society of the 16 units in Olive Morris Court; and
 - b) That the lease to HCBS of the Land does not proceed; and

- c) That the Council to take a 30-year lease of the 16 units owned by the Haringey Community Benefit Society and located in Olive Morris Court based on the Heads of Terms attached at (exempt) Appendix 1; and
- d) To give delegated authority to Director of Placemaking & Housing to agree the final terms of the Deed of Surrender; and
- e) To give delegated authority to Director of Placemaking & Housing to agree the final terms of to the agreements; and
- f) To give authority for up to three properties to be let 'rent-free' to residents who have no recourse to public funds or other issues restricting their income or eligibility, such as having pre-settled status as a European citizen.

3. Reasons for decision

- 3.1. Recommendations 2.1 (a), (b) (c) are recommended to ensure that the scheme complies with the GLA funding conditions. This will enable the Council to retain the £1,325,428 paid so far and claim the final payment of £441,809.
- 3.2. Recommendation 2.1 (d) & (e) are recommended to complete the lease.
- 3.3. Recommendation 2.1 (f) is recommended to provide accommodation to those who are unable to claim housing benefit until they address their immigration status.

4. Alternative options considered

The Council could leave the HCBS as landlord of the entire scheme

- 4.1. This proposal was rejected as this would mean that the Council would need to repay the Olive Morris Court grant already received and be unable to claim the remaining grant.

The Council could accept surrender of the lease for 16 units but not enter into a lease for the 16 units owned by the HCBS are located.

- 4.2. This proposal was rejected as this would mean that only half the GLA funding for Olive Morris Court would be available meaning the Council would need to repay half of the grant already received for Olive Morris Court and only receiving half of the second completion payment.

5. Background information

- 5.1. Olive Morris Court is a site of 33 modular units constructed on Council owned land. The scheme provides supported housing accommodation for people previously sleeping rough as well as office space to provide on-site support and security.
- 5.2. Sixteen of these homes are owned by the Haringey Community Benefit Society (HCBS) following a gift from the developer, Hill Partnership and occupy land owned by the

Council. This land was to be the subject of a lease by the Council to HCBS; but the lease has not yet been completed. The remaining units are owned by the Council with sixteen leased to the HCBS on 8 November 2021 and the remaining unit retained by the Council for use as an office.

- 5.3. The residents of all these homes are HCBS tenants and are given a standard two-year Assured Shorthold Tenancy or (where the tenant has no access to public funds) a Rent-free license. As a charitable organisation, the HCBS has agreed to forgo the rent for up to three rent-free tenancies.

Financial issues arising from HCBS as a landlord

- Withdrawal of grant funding
- 5.4. These modular homes were to be funded by a total grant of £1,767,237 awarded by the GLA's Rough Sleeping Accommodation Programme (RSAP) fund with 75% (£1,325,428) already received and the remaining 25% (£441,809) to be paid on completion. It has come to light that the grant is given on condition that the tenant's landlord was the Council or another Registered Provider.

Proposed solution

- 5.5. In the light of the on-going shortfall of service charges and the loss of capital funding, the only viable solution is to ensure that the tenants' landlord is a Registered Provider. While there is a theoretical option to ask the HCBS to register as a provider, this is both time consuming and the HCBS are unlikely to agree due to the complications with their rent setting options for other properties.
- 5.6. It is therefore proposed that that the Council becomes the direct landlord of these homes.
- 5.7. The only viable option is therefore for the Council to take a surrender of the existing lease and for the HCBS to lease its own units to the Council. The HCBS board has agreed to accept the Council's proposal in principle with final approval to be given once the final agreements have been drawn up.

Tenancy issues

- 5.8. The current residents hold two different tenures dependant on their access to housing benefits. Those without recourse to public funds hold a 'rent free' excluded licenses while the remaining residents hold an Assured Shorthold Tenancy.
- 5.9. When the Council becomes the landlord, residents holding an Assured Shorthold Tenancy will cease to be assured shorthold tenancies (by operation of law). The Council would however continue to house these residents on a "non-secure tenancy" in discharge of the Council's Relief Duty. This satisfies the funding conditions.
- 5.10. The three current residents who have no recourse to public funds would be housed on a non-secure tenancy under powers granted by s2B of the NHS Act 2006, or alternatively, following appropriate assessments, under s19 of the Care Act 2014.

Financial impact on capital

- 5.11. If the proposed solution would enable the Council to retain/claim the full grant totalling £1,767,237 for all 32 units. The proposed solution has been discussed with the GLA and they have indicated that they are agreeable in principle

Financial impact on Income

- Current arrangements

- 5.12. Under the current arrangements, the Council receives a lease charge income from the 16 units leased to the HCBS. The Council would (if the land lease was completed) also receive the lease charge income from the land lease.

- 5.13. At the same time, the Council receives payments for the support and security services it provides. However, as HCBS tenants can only receive payments up to the Local Housing Allowance, the maximum payment towards these services is limited to the remaining allowance after the rent payments. This is currently less than the full costs of these services.

- Proposed arrangements

- 5.14. If the proposed solution is agreeable to the HBCS, then the Council would become the immediate landlord. This would result in the Council receiving the rent element directly, but at the loss of the Lease charge income previously received from the HBCS. Against this income, the Council would also have to meet the expenses of managing these units as well as committing to meet the annual lease charge for the HCBS units.

- 5.15. Rent under Council tenancies, directly owned or long leased properties cannot be more than the formula rent plus 10% for these specific properties. These changes would though enable the full property and tenure related service charges to be paid by Housing Benefit.

Current arrangements

- 5.16. The current lease contains a break clause allowing six-months written notice. However, the earliest service date for this notice is in April 2023 which is outside the GLA requested timescale. Ending the lease unilaterally would thus forgo the capital funding, and also lead to an additional 18 months' shortfall in the service charges.

- 5.17. This proposal is therefore only viable if the HCBS agreed to surrender its leases and to lease its own units to the Council.

Negotiations with the HCBS

- 5.18. The proposed lease term will be for 30 years to comply with GLA funding requirements.

- 5.19. Initial modelling has shown that the HCBS would not be severely impacted if they requested the same lease charges for their 16 homes at the rate which the Council current receives for its 16 units.

5.20. This would enable the HCBS to retain a forecasted surplus similar to its current levels.

Rent Free units

5.21. As a charitable organisation, the HCBS currently forgoes the rent for three 'rent-free' units which are funded from the net income the Society generates from its own units. Although the HCBS would no longer be receiving the rents directly, the Society has agreed to forgo the lease income for up to three units where they are used to provide 'rent free' accommodation.

6. Contribution to strategic outcomes

6.1. The Olive Morris Court scheme assists with the delivery of Objective 2 of Haringey's Housing Strategy 2017-22 to "Improve help and support to prevent homelessness". These homes provide high level of support for some of the most vulnerable members of the community. The proposed changes will allow retention of the GLA grant making the scheme viable.

6.2. The scheme also assists with the delivery of the Homelessness Strategy and Rough Sleeping Strategy by providing accommodation to those who have previously been sleeping rough.

7. Statutory Officers comments

Finance

7.1. This arrangement will assist the Council to secure and receive the remaining capital grant allocated to this scheme.

7.2. This will have financial implication on both the HCBS and the Council. However, the lease rentals and other terms of the lease will be agreed such that the financial impact on both the council and HCBS are minimised.

7.3. The potential loss of revenue income by the council as a result of this arrangement will be mitigated by the capital grant receipts and full contribution to service charges

Strategic Procurement

7.4. Strategic Procurement note the contents of the report and the recommendation to enter into a lease for 30 years for the 16 properties. Strategic Procurement support the recommendation of the report

Legal

7.5. The head of Legal and Governance has been consulted in the preparation of this report.

7.6. The lease dated 8 November 2021 can be surrendered provided both parties agree. At the moment the 16 HCBS units are located on land belonging to the Council. No lease is yet in place. The Council will therefore take a lease of the 16 Units only.

- 7.7. The taking of a lease of the units from HCBS for a term of 30 years will be an acquisition on the part of the Council. Under section 17 of the Housing Act 1985, the Council can acquire for housing purpose houses, or buildings which may be made suitable as houses. The Council is therefore able to take a lease of these units.
- 7.8. The Council will take all the units (including the ones that are being surrendered) subject to the current Assured Shorthold Tenancies or licences (as the case may be).
- 7.9. A tenancy cannot be an Assured Shorthold tenancy if the landlord's interest is held by a local authority¹. The Assured Shorthold tenancies will therefore, on the Council becoming landlord, cease to be Assured Shorthold; but will continue as tenancies. They will not however become secure tenancies because they are granted/continue in existence pursuant to the Council's Relief Duty in the Housing Act 1996.²
- 7.10. In relation to those with no recourse to public funds, the Council has powers pursuant to s2B of the National Health Service Act 2006 to accommodate people who have been sleeping rough, whatever their immigration status, if it considers it appropriate so as to minimise any risks to health arising from their accommodation or environment.
- 7.11. The Council also has powers, subject to a human rights assessment, to provide this accommodation to those without such recourse in response to an accommodation need that is connected to an identified or suspected health and/or care need in a destitute adult's life under s19 of the Care Act 2014.
- 7.12. There is no legal reason why Cabinet should not follow the recommendations set out in this report.

Public Health

- 7.13. Haringey's Director of Public Health has noted that the health risks posed to these residents of becoming homeless again and reverting to sleeping on the streets is significant. Life expectancy for people who have been sleeping rough is thought to be as low as 47 years, which is 30 years lower than the general population.
- 7.14. A recent safeguarding adults review in Haringey looking at the tragic deaths of three vulnerable homeless people in Haringey, highlighted the importance of co-ordinated working and holistic support for people at risk to safeguard their wellbeing.

Equalities

- 7.15. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act

¹ Housing Act 1988 Sch 1 para 12

² Housing Act 1985 Sch 1 para 4

- Advance equality of opportunity between people who share those protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not.
- 7.16. The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.
- 7.17. Since the scheme commenced in December 2021, the scheme has supported 32 people, with 31 still residents and one successfully moving on to other accommodation.
- 7.18. Many residents share protected characteristics, with around two-thirds having a disability and half with mental health disability which is significantly higher than the borough. There are also around 15% who are LGBTQI+ and around 50% who are non-White. Only 30% of the residents are female, which is lower than the borough. The current residents are individuals who have previously been sleeping rough and are now being given accommodation with on-site support, which will continue if the landlord change is approved. The residents consist of tenants and licences, which will be replicated in the new scheme.
- 7.19. Under the current arrangements, the total rent and service charges are met by Housing Benefit, which will continue under the new arrangements.
- 7.20. The proposed landlord change would mean a reduction in the rent from Formula Rent Cap (plus 10%) to considerably lower Formula Rent for the property (plus 10%); however, as the maximum housing benefits payments will increase from the Local Housing Allowance to the full formula rent + 10% plus the full-service charges. There will be a rise in the payments paid by Housing Benefits.
- 7.21. The impact of this client group is therefore likely to be nil or minimal, and while there is an overrepresentation of protected characteristics present in the residents, there are no expected negative equalities consequences arising from this decision

8. Use of Appendices

Appendix A – Heads of Terms (exempt)

9. Local Government (Access to Information) Act 1985

- 9.1. This report contains exempt and non-exempt information. Exempt information is contained within Appendix A – Heads of Terms and is not for publication. The exempt information is under the following category (identified in amended schedule 12A of the Local Government Act 1972): S. (3) Information relating to financial or business affairs of any particular person (including the authority holding that information).