

Subject:	Charles Kingston Gardens Lease Acquisition	
Date of Meeting:	16th November 2022	
Report of:	Executive Director for Housing, Neighbourhoods and Communities	
Contact Officer:	Martin Reid Craig Garoghan	Tel:
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Ward(s) affected:	Patcham	

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Clarion Housing Association Limited (Clarion) hold a long lease on Charles Kingston Gardens, Brighton, a building consisting of 18 sheltered flats directly adjacent to Elwyn Jones Court, a council seniors housing scheme. Brighton & Hove City Council are the building freeholder.
- 1.2 Clarion wish to surrender the long lease on Charles Kingston Gardens for a premium. This report seeks approval for Housing Committee to delegate authority to the Executive Director Housing, Neighbourhoods and Communities to accept a surrender of the long lease on Charles Kingston Gardens from Clarion facilitating its use as council seniors housing.
- 1.3 If Housing Committee approve this recommendation, this proposal would proceed as a small-scale stock transfer, subject to consultation with the existing Clarion tenants, who if in agreement would remain in their homes, becoming Brighton & Hove City Council tenants.
- 1.4 This report sets out the implication of the stock transfer and how this proposal aligns with the council's strategic housing priorities.

2. RECOMMENDATIONS:

- 2.1 Housing Committee recommends that Policy & Resources Committee delegate authority to Executive Director Housing, Neighbourhoods & Communities to accept a surrender of the long lease on Charles Kingston Gardens from Clarion Housing Association Limited to use as seniors housing, subject to all further enquiries to be carried out proving satisfactory.
- 2.2 That Housing Committee recommends to Policy & Resources Committee that the Council makes an offer of up to the agreed sum and approves a budget line to be included in the 2022/23 HRA Capital Programme detailed in the Part 2 report.

That Policy & Resources Committee:

- 2.3 That Policy & Resources Committee delegate authority to Executive Director Housing, Neighbourhoods & Communities to accept a surrender of the long lease on Charles Kingston Gardens from Clarion Housing Association Limited, to use as seniors housing subject to all further enquiries to be carried out proving satisfactory.
- 2.4 Approve that the Council makes an offer of up to the agreed sum and approves a budget line in the 2022/23 HRA Capital Programme detailed in the Part 2 report.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Charles Kingston Gardens is situated next to a Council owned seniors' housing scheme, Elwyn Jones Court, at South Woodlands, Brighton.
- 3.2 The existing 125-year lease on the building was granted by Brighton Borough Council to Sutton Housing Trust in July 1992 for the provision of housing for older people. The Trust entered into a lease with the Council to convert the building into 18 self-contained sheltered flats with the Council providing a warden service to the tenants broadly equivalent to the council tenants of Elwyn Jones Court. This was through a service level agreement that was amended in 2011 to include shared laundry services across both buildings.
- 3.3 The building consists of 16 x 1 bedroom flats and 2 x 2 bedroom flats arranged over two storeys. Most homes are currently occupied.
- 3.4 The Council also retained nomination rights for as long as the Trust held the property in ownership. Clarion acquired the long lease through a merger and transfer of assets in 2016. The Council retain nomination rights to these homes.
- 3.5 Clarion has rationalised its property portfolio in the city and wishes to surrender the long lease on Charles Kingston Gardens to the Council for a premium. This would provide the opportunity for the Council to gain a site of 18 existing homes for much needed residential units 95 years before the lease expires.
- 3.6 Subject to formal stock transfer consultation by Clarion, the transaction will also see the transfer of the current residents to the Council to become part of the HRA Seniors Housing service.
- 3.7 Charles Kingston Gardens is directly adjacent to Council owned seniors housing, Elwyn Jones Court, and its residents have to date benefitted from some of the Seniors Housing services the Council provides to Elwyn Jones Court residents. There is potential for further benefits for the residents by bringing services to these two buildings together.

Alignment with strategic priorities

- 3.8 Housing demand, rising private sector rents and the current cost of living crisis have had an adverse effect on affordability of housing in the city. A key strategic aim for the Council is therefore to increase the supply of Council housing in the

city which meets the needs of current and future residents. This is supported by targets set out in the Housing Committee Work Plan 2019-23.

- 3.9 Seniors Housing also provides a highly valuable resource in the city helping to build strong communities and allows residents to maintain a level of independence for longer. The Older People Housing Needs Assessment completed in 2019 identified a need and demand for more quality, well designed older people's housing in the city. These findings also aligned with the independent review completed by Design South-East which identified areas of improvement required in the council's own seniors housing stock against contemporary standards of good design.
- 3.10 Acquiring this site would bring a further 18 homes into council ownership with any empty properties let via the Council's Housing Register further helping to meet housing need. Good quality seniors housing, with the council's Seniors Housing service offering comprehensive and consistent service to residents across both Elwyn Jones Court and Charles Kingston Gardens, can help residents live independently for longer and provide an opportunity for encouraging council tenants under-occupying larger homes elsewhere to downsize. Once in the Council's portfolio the scheme will also benefit from future improvements and investment in the homes to ensure the accommodation meets good standards of design.
- 3.11 There are also wider opportunities due to the proximity to Elwyn Jones Court with investment opportunities across the overall site and potential economies of scale achieved in considering the delivery of carbon zero measures and upgrades across Elwyn Jones Court & Charles Kingston Gardens aligned to our emerging HRA Asset Management Strategy. Charles Kingston Gardens can be considered within outline plans for Elwyn Jones Court for new low carbon heating and hot water provision alongside any required insulation improvements and low energy lighting upgrades.

Financial appraisal

- 3.12 The financial appraisal contained in Part 2 of this report is based on the surrender of the lease by Clarion so that the property reverts to the Council as freeholder, with the Council paying a premium for the surrender of the lease. including provision for funding the cost of any works required on Charles Kingston Gardens and bringing the rent and service charges for residents in line with the charges at Elwyn Jones Court.
- 3.13 Standard Council 60-year NPV financial appraisals have been undertaken with regards to the surrender of the lease at Charles Kingston Gardens. The latest appraisal considers the capital investment costs, rental income and on-going management and maintenance costs to ensure the properties remain in a good state of repair over a 60-year period. The appraisal concludes that over a 60-year period the council could invest the sum included in Part 2 of this report in acquiring the lease without requiring additional investment from current HRA revenue resources.

- 3.14 The financial appraisal includes some risks, including risks related to the current economic market where inflation continues to increase and supply of materials remains uncertain and assumptions around the costs of zero carbon works.
- 3.15 The full financial appraisal is included in the confidential Part 2 of this report.

Weekly Rent and service charges

- 3.16 Council proposals include Charles Kingston Gardens being grouped with Elwyn Jones Court and the rents set the same, as they are adjacent properties.
- 3.17 Service charges would also be equivalent to those which tenants are charged at Elwyn Jones Court. Tables 3 and 4 below provides a comparison of Clarion rents and service charges against the proposed rents and service charges. It is important to note that all charges included in the table below will attract Housing Benefit. If the lease surrender is not approved a review of the current services will need to be undertaken to ensure all costs are being recovered, this could be in the form of a Intensive Housing Management charge being implemented.

Table 3 - Net Rent comparison			
Property Type	Average 2022/23 BHCC Net rents £	Average 2022/23 Clarion Net Rents £	Variance £
2 Bed Bungalow	92.10	107.45	(15.35)
1 bed Flat	77.17	94.03	(16.86)

Table 4 - Service Charge comparison			
Property Type	Average 2022/23 BHCC service charges £	Average 2022/23 Clarion Service Charges £	Variance £
2 Bed Bungalow	42.21	9.75	32.46
1 bed Flat	42.21	12.51	29.70

Timeline

- 3.18 If the report recommendation is agreed, and subject to formal consultation by Clarion with the current tenants of Charles Kingston Gardens, the target date for the formal transfer is Monday 3 April 2023.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 **Option 1:** Not proceed with accepting lease surrender.
- 4.2 This option would constrain the Council from delivering a comprehensive and consistent service offer to all residents of Elwyn Jones Court and Charles Kingston Gardens. Not to proceed may also risk the Council missing an opportunity to increase overall housing stock and to consider investment and improvements across this combined site in line with our emerging HRA Asset Management Strategy, particularly with regard to achieving zero carbon and increasing housing quality and supply. Not proceeding would also necessitate the council reviewing the current services provided to Clarion residents at Charles Kingston Gardens by the council’s Seniors Housing service to ensure all costs are covered.
- 4.3 **Option 2:** Subject to remaining due diligence and formal resident consultation, agree to the surrender of the lease for a premium, and then extend the council’s Seniors Housing service to Charles Kingston Gardens.
- 4.4 This option avoids the potential for the lease being sold on the open market by the current leaseholder to a third party. This option would be in line with the council’s Housing Strategy aim to increase housing supply, as well as the priority of the Council to increase the availability of housing at social rent levels within the city. In addition, this option would enable the council to consider investment and improvements on this combined site (alongside Elwyn Jones Court) in line with our emerging HRA Asset Management Strategy, particularly with regard to achieving zero carbon and increasing housing quality and supply. The council’s Seniors Housing service would also be in a position to offer comprehensive and consistent service to residents across both Elwyn Jones Court and Charles Kingston Gardens.
- 4.5 Strengths, Weaknesses, Opportunities & Threats (SWOT) analysis for Option 2:

Strengths	Weaknesses

<p>Leaseholder is interested in surrendering the lease.</p> <p>Potential lease surrender terms appear reasonable to the Council.</p> <p>The building condition and age of construction is favorable to enable cost effective repairs and improvements including adaptations & sustainability initiatives.</p> <p>Accessible location, increasing the HRA's capacity of much needed accessible housing.</p> <p>Resources are available to accept surrender of the lease.</p> <p>Clarion are unable to offer a Seniors Housing service at this site. BHCC can support residents by extending services from Elwyn Jones Court.</p>	<p>Residents may feel a move to BHCC may leave them financially out of pocket if a new service looks expensive.</p> <p>The proposed purchase of the scheme is on an existing use basis with current tenants in situ. This limits consideration of alternative any uses for the site and the number of vacant homes to meet seniors housing needs available at this time. As of 4th November 2022, there are two empty and 16 tenanted homes at Charles Kingston Gardens.</p>
Opportunities	Threats
<p>Potential to provide a whole site Seniors Housing service.</p> <p>Contributes to the council's strategic Housing objectives, including opportunities to:</p> <ul style="list-style-type: none"> • Increase our overall housing stock. • Invest across this combined site in line with our emerging HRA Asset Management Strategy, particularly with regard to achieving zero carbon and increasing housing quality and supply. 	<p>Leaseholder may approach a third party to take on the lease.</p> <p>Specialist advice has indicated there is demand for this accommodation in the local market.</p> <p>Residents may not support the transfer of the stock to BHCC.</p>

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 If Housing Committee and Policy & Resources Committee approval is gained to acquire the remaining term of the lease, full formal resident consultation will be undertaken with existing residents by Clarion on this proposed stock transfer. The residents of Charles Kingston Gardens are aware of the proposal following some initial consultation undertaken by their current landlord and that the permission is being sought to progress this proposal.

5.2 As part of the consultation, the council will attend events and offer individual meetings, to talk to residents about any issues they may have with the stock transfer proposal and to help them give an informed view in the consultation process.

6. CONCLUSION

6.1 If approved, a decision to accept the lease surrender on the building at a premium is advantageous to the Council in that it enables the premises in question to be used to increase the City's overall council housing stock and increase the supply of Seniors Housing, enabling a whole site offer to be considered alongside the adjoining Elwyn Jones Court.

6.2 Should acceptance of lease surrender be agreed and resident consultation on this stock transfer proposal achieve a positive outcome, the existing residents will transfer to the Council on secure tenancies at rent and service charge levels aligned to our existing Seniors Housing services.

7. FINANCIAL & OTHER IMPLICATIONS

Financial Implications – PART 2

7.1 Finance Officer Consulted: Craig Garoghan

Date: 03/11/2022

Legal Implications:

7.2 There are a number of issues which need to be clarified:

- Further clarification may be obtained on the nature of the tenancies held by current residents of Charles Kingston. It is important to understand that if the property comes under the local authority it is likely that all the tenants will become secure tenants of the authority. It is important to clarify that the current residents will remain in situ and will transfer over their tenancies to the Council. Transferring tenants may well have acquired rights. This could (unless exempt under the Housing Act 1985) include right to buy. Given the capital expenditure involved, committee may not wish the right to buy to be effective.
- Right to buy does not apply to seniors housing where it meets the criteria under Schedule 5 to the Housing Act 1985. Enquiries should be made of Clarion to confirm on what legal basis they have been the landlord (was it as a seniors scheme or other) and enquiries made to ensure that the residents meet the criteria (over 60 and / or elderly). Particular attention should be paid to any dwelling not part of the main block. If they are separate, then different criteria apply to see them exempted from the right to buy.
- There is some mention of a grant, attached to the land. Enquiries should be made in relation to this and if it cannot be clarified, then consideration given to seeking an indemnity from Clarion that they repay any monies due on a grant. Based on very preliminary enquiries the issue of the grant is not significant. It appears to be related to the construction and will not be an issue while the property remains a social let.

- The surrender of a lease by a tenant to its immediate landlord is a consensual arrangement between the landlord and the tenant. The Council's tenant is willing to surrender its lease for a premium and paragraph 3 of this report explains why it is in the interest of the Council to accept the surrender. The payment of a premium means that this is in effect an acquisition. The Council has powers under the Housing Act 1985 to acquire this property. It should be done for good value. Value is not simply a cash value, but can take into account other relevant factors. Additional value is described within the report, which can be a consideration.

Legal Officer Consulted:
2022

Simon Court

Date: 31st October

Equalities Implications:

There are no immediate equality implications arising from this report.

Sustainability Implications:

Charles Kingston Gardens will be considered alongside other Council homes within our Asset Management Strategy and linked carbon neutral and affordable warmth plans. Plans for low carbon heating and hot water provision at Elwyn Jones Court can be extended to Charles Kingston Gardens with the projects being joined up to provide economies of scale and opportunities to maximise carbon reductions.

Any Other Significant Implications:

Public Health Implications:

There are significant health impacts from living in cold homes with older people and people with long term health conditions in higher risk groups. The potential to incorporate Charles Kingston Gardens into potential future works at Elwyn Jones Court provides an opportunity to ensure residents have access to low carbon, reliable and affordable heating and hot water services.

Crime & Disorder Implications:

There are no crime and disorder implications directly arising from this report.

Risk and Opportunity Management Implications:

Please see paragraph 4.5 above.

Corporate / Citywide Implications:

None envisaged.