

Subject: Brighton and Hove Seaside Community Homes - Registered Provider application

Date of Meeting: 12th June 2014

Report of: Executive Director for Environment, Development & Housing

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Wards Affected: All

FOR GENERAL RELEASE/ EXEMPTIONS.

1. PURPOSE OF REPORT AND POLICY CONTEXT:

- 1.1 This report is seeking support for Brighton and Hove Seaside Community Homes Limited (BHSCH) to become a Charitable Registered Provider with the Homes and Communities Agency (HCA).
- 1.2 BHSCH was set up to enable the Council to help meet a funding gap of £45 million needed to carry out works to its housing stock and thereby deliver a 'Decent Homes' to all council tenants. Approval was previously granted for the Council to transfer 499 units of vacant housing stock from the Housing Revenue Account (HRA) to BHSCH by a series of long leases. The properties are managed on behalf of BHSCH by the Council's Housing Service Temporary Accommodation team.
- 1.3 Further information is set out in the 16.09.2011 Cabinet Report.

2. RECOMMENDATIONS:

- 2.1 That Policy and Resources in principle support and endorse Brighton and Hove Seaside Community Homes Limited becoming a Registered Provider with the Homes and Communities Agency and authorise the Head of Legal to vary the existing and complete new documentation as necessary.
- 2.2 That final agreement is subject to BHSCH undertaking the necessary consultation for example with residents and lenders.

3. CONTEXT / BACKGROUND INFORMATION:

- 3.1 The business case rationale for the setting up of and transfer of properties to BHSCH was that the capital receipts would enable the council to bring the remaining HRA properties up to decent homes standard and in addition that long term empty properties would be refurbished and brought back into use.

It was envisaged that the ethos of BHSCCH would be to work in partnership with the council such that surpluses achievable over the medium to long term would be reinvested for the benefit of Brighton and Hove residents, in particularly for deprived communities in defined Super Output Areas.

3.2 The project has progressed well:-

- So far the council has transferred 416 properties of which 393 have been refurbished and allocated to vulnerable homeless households who would otherwise have spent longer in emergency accommodation.
- At the end of 13/14 a capital receipt to the HRA of £16.188 million and £6.504 million for the General Fund had been achieved, giving an overall total of £22.692 million. Current estimates are that by the end of 2015/16, the HRA will receive a total of £19.437million and the General Fund £9.050 million; i.e. £28.487 million in total for the 499 properties. The capital receipts for the General Fund relate to the reimbursement of the capital works on the properties undertaken by the General Fund, the properties remain under the freehold ownership of the Housing Revenue Account.
- Many of the properties refurbished were major voids or properties that were no longer fit for purpose, such as old temporary accommodation properties that had shared facilities. These have now all been brought up to the decent homes standard.
- In addition the council has achieved 100% decent homes in the HRA housing stock.

3.3 As part of the original business plan feasibility, certain risks were highlighted. As the project has been well managed the majority of those risks have been mitigated or not been realised. For instance, there were concerns that the number and/or size of properties modelled would not become available, or that the average costs of the refurbishments would go over modelled budget, neither of which has occurred to date. .

3.4 Other risks highlighted related to the rent guarantee and the Local Housing Allowance Rate (LHA) rate of Housing Benefit (HB). The council guarantees to pay BHSCCH 91% of the modelled rent, uplifted on an annual basis by 3.2%, based on the historic trend that the LHA rate of HB had increased annually at a rate close to 3.2%.

3.5 Subsequent to the project going live, the Government brought in changes to the LHA rate of HB. The rate was reduced to the equivalent of the 30th percentile of rents and has not increased at the same rate as was modelled. The changes that the Government brought in will result in an increasing gap between the actual rent we can collect (aligned with LHA HB) and the amount we have guaranteed to pay BHSCCH.

3.6 This gap is set to widen, as LHA has had minimal increases on some sizes of property and has decreased on others. New rates published for 14/15 have been uplifted by 1% except for 3 bed properties which will be

increased by 4%. In contrast the Council guarantee an annual uplift to BHSCHS at 3.2%pa.

- 3.7 Under the existing arrangements, whilst rents could be set higher than the LHA rate, it is unlikely that tenants would be able to pay this amount as the majority are reliant on all or part of their rent being paid from HB.
- 3.7 If BHSCHS becomes a Charitable Registered Provider, their accommodation would no longer be subject to the LHA HB rates, but instead, as a Registered Provider (RP), it could set rents that are in accordance with the Temporary Accommodation regime. These rents can be legitimately increased each year by CPI + 1% (from 2015- 2025) in accordance with the government's HCA rent standard. Assuming a similar rate of rent collection, this would result in the call on the Council in respect of the Rent Guarantee being smaller or no longer required. The higher rents could have an impact on tenants if they were not in receipt of any HB but were self funding. Currently there is only one tenant who is completely self funding.
- 3.8 The Council and BHSCHS have been exploring the option of BHSCH becoming a RP with the HCA. BHSCH have achieved approval under stage 1 and are in the process of gathering evidence to submit for stage 2.
- 3.9 Becoming a RP would enable a new rental regime to be applied that allows the rental income collected to keep pace with real inflation costs. RPs can charge a rent that providing it is not considered to be an unreasonably high rent will be covered by HB. As a guide a rent of no more than 10% higher than equivalent LHA rate is not considered to be unreasonably high. RPs can also increase rents by CPI plus 1% from 2015; until 2015 rents can be increased by RPI plus 0.5% pa.
- 3.10 In the medium to long term as BHSCH's loan is paid down, it will start to generate a surplus as the rental income collected begins to exceed the annual cost of managing and maintaining the housing stock and paying down the loan capital and interest. The proposed RP arrangement will reduce the short to medium term financial exposure to the council, of collected rents not being sufficient to pay the rent guaranteed to BHSCH. In the initial year when rents can be increased on the anniversary of the tenancy, they could be increased by 10% over the LHA rate to minimise the gap. Under the terms of the Overarching Agreement, the council can claim back any monies paid under the Guarantee once BHSCH achieve a surplus. This isn't anticipated to arise for some years. If any future surpluses generated are not required to support the council in meeting its rental guarantee commitment, then these surpluses will be shared, generating additional income for the council to enable further development. Seaside will use its share of surpluses to provide or improve housing within the boundaries of Brighton & Hove.
- 3.11 The Benefit Cap (BC) was introduced this year so that the total benefit for families is capped at £500 pw and for single people at £350pw. Currently there are only a few households in BHSCH properties that are impacted by

this, and this risk would be similar regardless of whether BHSCH is an RP or continues within its current status.

- 3.12 LHA HB is usually paid direct to the tenant although the council has managed to secure HB payments direct to it. If BHSCH becomes an RP then a similar case for the HB to be paid direct to the council rather than the tenant will be made.
- 3.13 The Government are planning to roll out Universal Credit (UC) in 2016 which will mean that the decision to pay the HB element direct to the council will no longer be decided locally but will be made by the DWP. If the DWP decide that the HB element is to be paid to the tenant then the income collection rates are likely to fall and create a pressure on the council. This would be the case irrespective of whether BHSCH becomes a RP or maintains current status.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 If the committee was minded to reject the proposal that BHSCH becomes an RP this could increase the call on the guarantee, as the difference between the modelled rent guaranteed to be paid by the council and the rent that can be realised as aligned with the LHA rate of HB grows.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Apart from the required HCA consultation and registration process, there has been no consultation by the council regarding the proposals set out in this report.

6. CONCLUSION

- 6.1 The recommendations have been made so as to reduce the financial exposure of the Council in the short/medium term until BHSCH starts to make surpluses. In the longer term, as BHSCH does make surpluses then they can be shared and reinvested in housing, rather than offsetting debt incurred covering rental shortfall. This will provide better value for money for the Council.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The rent guarantee was identified as a key financial risk in the report to Cabinet dated 16th Sept 2011. As stated in the body of the report, this risk has now materialised due to the growing divergence between the LHA rates and the modelled rent rates. The following table shows the current guaranteed/modelled rents compared to the known 2014/15 LHA rents and the potential Registered Provider rents assuming (i) CPI at 1.7% (as at February 2014) plus 1% or (ii) the maximum increase of 10%:

Modelled Rent	Property Size	LHA Rates 2014/15	RP Rates (2.7%)	RP Rates (10%)
159.75	1 Bed	151.50	155.59	166.65
196.62	2 Bed	190.57	195.72	209.63
244.55	3 Bed	228.00	234.16	250.80
342.85	4 Bed	326.31	335.12	358.94

- 7.2 The rent guarantee is payable to BHSCCH under the Top-Up/Shortfall provisions in the contract and whilst it is repayable to the Council from Available Money in due course, does represent a significant cash flow pressure on the Authority. Available Money is defined as the amount arising to BHSCCH at the end of any financial year which is not required to meet current or anticipated obligations and it is has been acknowledged that there is no anticipated Available Money for the first 10 years. First call against Available Money relates to the 'best consideration' review (of the property purchase price) which is expected to be completed by summer 2014. Repayment of the rent guarantee sums paid have second call on these funds. The impact of the best consideration review on the potential Available Money is not yet known.
- 7.3 The table in Appendix 1 illustrates the potential impact on the Council of continuing with the existing arrangements compared to implementing higher RP rents. This is based on the LHA rates rising at 1% compared to the modelled rent rising at the contracted rate of 3.2%. Potential RP rents are illustrated at (i) the current CPI (1.7%) plus 1% and (ii) an initial increase of 10% followed by CPI plus 1%. Based on these assumptions, the rent guarantee payable for year 5 is estimated to be £0.317m under the existing arrangements compared to £0.257m at CPI plus 1 % or potentially zero if rents are increased by 10% in the first instance. These sums would increase in subsequent years and would have a cumulative impact on cash-flow until such time that there is sufficient available money. The figures quoted are indicative only and will vary depending on a number of factors including actual inflation rates, timing of property transfers, etc.
- 7.4 The graph in Appendix 1 demonstrates that the proposals would mitigate the impact of the rent guarantee over the term of the contract. There would be an increase in the risk of collection as under the Management Agreement the council bears the risk of collecting 91% of rents receivable. This may not be a significant issue in the short term as HB for RP's can be paid to the council as is currently the case. The risk of collection is also subject to the impact of the Benefit Cap and Universal Credit in due course , a risk that the Council already faces.
- 7.5 The obligation from the council to BHSCCH, guaranteed to the bank, would not change under the proposal to become an RP but some of the risk would effectively transfer from eventual repayment of the rent guarantee/Top Up from Available Money, subject to sufficient funds, which lies with BHSCCH, to

the collection of rent which lies with the council under the Management Agreement. It is evident that the proposal to become an RP, if approved, would improve the cash-flow position of the Council.

- 7.6 Any changes in the financial assumptions and/or clarification of other financial issues or inconsistencies would be addressed whilst updating the contract documentation.

Finance Officer Consulted: Michelle Herrington Date: 16 April 2014

Legal Implications:

- 7.7 In order to become a RP, BHSCCH need to satisfy certain criteria derived from s112 Housing and Regeneration Act 2008. Given it's objectives, BHSCCH should satisfy these criteria and should not need to change it's constitution or governance arrangements.
- 7.8 If RP status is granted to BHSCCH, the documentation regulating the council's relationship with BHSCCH will be amended to reflect that change and the opportunity taken to clarify or modify other provisions therein.
- 7.9 The other legal implications of these proposals have been integrated into the main text of the report

Lawyer consulted: Bob Bruce Date: 17.04.14

Equalities Implications:

- 7.7 The higher rents will be covered by Housing Benefit and so the impact will be negligible providing the majority of BHSCCH tenants remain eligible for full housing benefit allowances.

Sustainability Implications:

- 7.8 Being able to charge higher rents that can be covered by Housing Benefits will mean that there is less likely to be a shortfall between actual rents and modelled rents and hence the rent guaranteed by the Council will be a lesser amount. While any monies paid is recoverable from BHSCCHs in the future once they start making surpluses, it would mean there is less opportunity to share those surpluses for future development. Hence sustainability would be improved if BHSCCHs were to achieve RP status.

Crime & Disorder Implications:

- 7.9 None.

Risk & Opportunity Management Implications:

- 7.10 The proposal will contribute to the council's strategic priorities of obtaining better use of public money and provide opportunity to create surpluses in the future for investment.

Corporate / Citywide Implications:

- 7.11 This proposal will minimise the financial exposure of the Council and enable us to invest more in the city in the future on housing development as BHSCs starts to make profits that will be shared rather than offsetting rental shortfall.

SUPPORTING DOCUMENTATION

Appendices:

1. Financial Impact – Schedule 9 – Top-up Payments

Documents In Members' Rooms:

None.

Background Documents:

None.

Financial Impact - Schedule 9 - Top-up Payments

The following table summaries the financial impact in each of the first 10 years at various levels of inflation below or equal to that guaranteed by the council. For example if CPI averages 2.5% from year three, the council will be required to pay additional £0.257m in year five under the guarantee to support Seaside

Project Year	Financial Year	Modelled Rents	2014/15 LHA Uplift 1%	RP at February 2014 CPI	Initial 10%, then RP Rates	Projected Cash Surplus - Per Model March13 £'000
		£'000	£'000	£'000	£'000	

To Date

1-3	2011/14	4,314	167	167	167
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Projected for 2014/15; where LHA rates are known but schedule of properties are variable

4	2014/15	3,600	223	223	223
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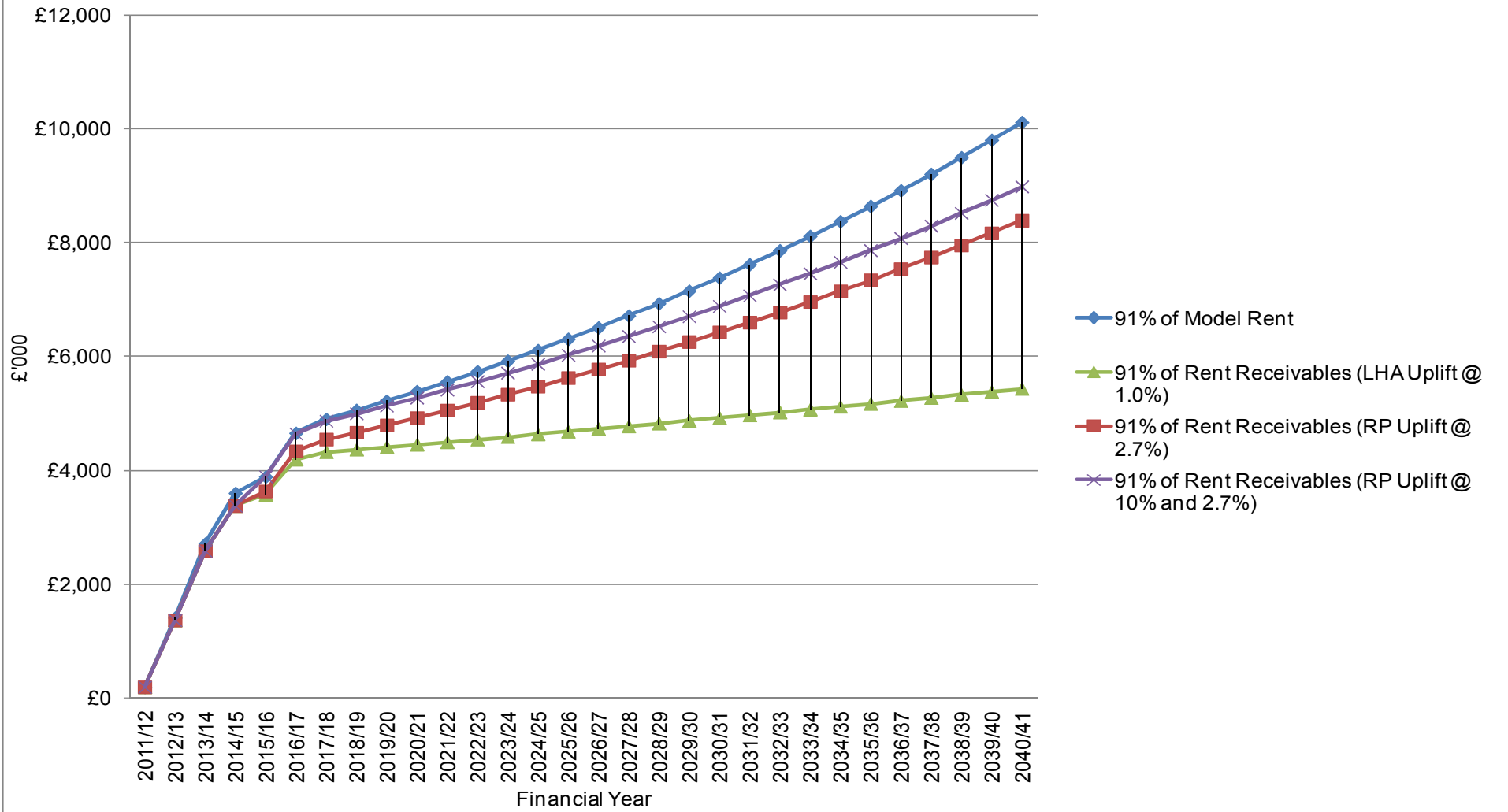
Projection for Future Years

5	2015/16	3,889	317	257	-2
6	2016/17	4,654	461	319	11
7	2017/18	4,900	577	355	32
8	2018/19	5,057	691	390	58
9	2019/20	5,219	809	425	85
10	2020/21	5,386	932	463	113
20	2030/31	7,380	2,460	954	497
30	2040/41	10,112	4,678	1,725	1,129

Cumulative Amounts

Years 1 - 10	37,018	4,177	2,598	686	2,383
Years 1 - 20	101,325	21,424	9,742	3,766	8,548
Years 1 - 30	189,440	57,557	23,244	11,964	15,735
Years 1 - 40					76546

Modelled Rents Compared to LHA/RP Proposals



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