

<b>Subject:</b>	<b>Review of long lease held by Brighton Lions at Lions Court</b>		
<b>Date of Meeting:</b>	<b>23 September 2015</b>		
<b>Report of:</b>	<b>Executive Director of Environment, Development and Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Simon Pickles</b>	<b>Tel: 29-2083</b>
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<b>Ward(s) affected:</b>	<b>East Brighton</b>		

**FOR GENERAL RELEASE**

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Brighton Lions, through its Housing Society, were leased council (Housing) land at Manor Way, Brighton in 1968 in order to build affordable residential accommodation for rent. They built 30 older persons' flats which they manage. The lease has approximately 52 years left to run. The Brighton Lions now wish to buy the freehold to enable them to grow and invest in new social projects.
- 1.2 The Brighton Lions have met with council officers to discuss the options of:
  - a) buying the freehold (the Brighton Lions' preference)
  - b) extending the lease (which they have a statutory right to do)
  - c) letting the current lease continue until it expires (not their wish)
- 1.3 The Brighton Lions' Manor Way scheme supports the council's housing strategy. Sale of the freehold would provide a capital receipt that could subsidise the housing capital programme.

**2. RECOMMENDATIONS:**

- 2.1 That Housing & New Homes Committee recommends to the Policy and Resources Committee the sale of the freehold of Lions Court to the Brighton Lions for a consideration equal to its market value, in the sum of £670,000.
- 2.2 That Housing & New Homes Committee agrees that if a decision is taken to sell the freehold, a restrictive covenant is placed on the land for social housing use only.
- 2.3 That Housing & New Homes Committee notes that the council will be offered nominations by the Brighton Lions if they are unable to let a vacant flat.
- 2.4 That Housing & New Homes Committee recommends to the Policy and Resources Committee that it approves that the capital receipt be used to support the housing capital programme.

### **3. CONTEXT/ BACKGROUND INFORMATION**

#### **3.1 The organisation**

- Brighton Lions (BL) housing society is a registered provider, and an industrial and provident society. They were last inspected by the housing regulator 8-10 years ago
- BL has 15 board members, including professionals from the legal, finance and property sectors
- BL has never attracted government grant funding, they have been self-financing. The council leased the land to BL who were able to fund the build thanks to a donor
- In addition to Lions Court (30 homes) BL owns (as freeholder) Lions Dene (37); Lions Gardens (6); and Lions Gate (42). Total stock: 115 homes
- BL tenants are on assured tenancy agreements
- Rents at Lions Court range from £103.45 - £120.74 per week, which includes a service charge of £10.13 and water rates of £6.06
- A site map is at Appendix 1. Photographs are at Appendix 2.

#### **3.2 Allocations process/ nomination rights**

- The BL operate their own waiting list. Applicants must be residents of Brighton and Hove, be over 55 years of age and have been resident for 5 years. Applicants are allowed up to £16,000 'liquid assets' but must not own a property
- The majority of BL tenants are on Housing Benefit
- Vacancies are allocated on greatest need to people over 55 years old.
- They prioritise to those in greatest need using a needs-based points system
- Despite provision in the lease, historically the council and BL have not exercised the nominations clause
- As part of the negotiation BL have offered a side nominations agreement that they will accept nominations for tenants from the council's waiting list if they cannot find a tenant for a flat themselves ('second refusal')
- Nominations rights have a value. If the freehold is to be sold, there cannot be any legally binding requirement for future nomination rights by the council, as there could be in a lease. Should the council wish to retain 'guaranteed' nomination rights, the advice from the council's appointed chartered surveyor is to extend the lease rather than sell the freehold. This would reduce the capital receipt to approximately £165,000.

#### **3.3 Brighton Lions' stated reasons for wishing to purchase the freehold of Lions Court**

- a. Acquisition of the freehold will increase the Brighton Lions' borrowing power and improve their ability to commence a new social housing development for older people, which will benefit the City. For any new development the finance provider takes a first charge on the entire portfolio and the funder's own surveyor values the portfolio to ascertain how much money they will lend. As leases get shorter they are diminishing assets and will be downgraded accordingly for lending purposes.

- b. Should any unexpected emergency work be needed at Lions Court ownership of the freehold will improve their chances of raising finance. The ability to secure lending against this asset will decrease as the lease length diminishes.
- c. To bring their portfolio all into line. All their other properties are freehold.
- d. To safeguard the future of Lions Court as social housing for older people in need.

#### 4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 While Option 1 is recommended, the Housing & New Homes Committee may decide to adopt options 2 or 3 instead.

<b>Option 1:</b>	Brighton Lions (BL) buy the freehold	<ul style="list-style-type: none"> <li>• In September 2014 Cluttons valued the freehold at £700,000 and a sale price agreed after negotiation at £670,000 (once assumptions had been clarified) in April 2015</li> <li>• Brighton Lions (BL) can borrow against its asset and replace buildings at its own expense</li> <li>• BL will accept a covenant to permanently provide social housing on this site</li> <li>• BL has agreed to a side agreement to retain nomination rights for the Council in the event they are unable to fill vacant units.</li> </ul>
<b>Option 2:</b>	Extend the lease – which BL has a statutory right to do	<ul style="list-style-type: none"> <li>• In September 2014 Cluttons valued the leasehold extension (up to 125 years) at approximately £165,000</li> <li>• BHCC receives a smaller capital receipt than Option 1</li> <li>• BL can borrow against a higher value and replace buildings at its own expense</li> <li>• BL is back in the same position in the future with a diminishing asset</li> <li>• Opportunity for BHCC to renegotiate nominations % (but with BL applying its own re-housing criteria).</li> </ul>
<b>Option 3:</b>	Let the lease run to end of 99 year term	<ul style="list-style-type: none"> <li>• Lease then reverts to BHCC</li> <li>• If BHCC doesn't agree to a lease extension, BHCC may get the property back in 52 years with the need for significant improvement</li> <li>• If BHCC takes property back (in 52 years), it would be able to develop the site at greater density.</li> </ul>

## **5 COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The East Area panel was consulted on 26 January 2015 and was satisfied but sought reassurance that Brighton Lions were good guardians of their properties. The Housing Stock Review Manager has visited all four schemes owned and managed by Brighton Lions and was satisfied by the quality of maintenance in evidence.
- 5.2 The ward members have been informed of the proposal. One question was asked about nomination rights and one about the market value.

## **6. CONCLUSION**

- 6.1 The council has been offered a capital sum of £670,000 for the freehold. This would enable the council to deliver its housing strategy by reinvesting this receipt in the housing capital programme, whilst protecting the future use of the site for social housing.
- 6.2 If the council wishes to retain nomination rights (which on this site have not been exercised) then a reduced receipt of approximately £165,000 would be received.
- 6.3 There is a 'do nothing' option, which is waiting for the lease to revert to the council in 52 years. The council currently receives £5 (five pounds) ground rent per annum.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### **7.1 Financial Implications:**

- 7.1.2 Changes in Capital Financing regulations took effect from April 2013, which allows the council to retain the full amount of the capital receipt from the sale of this freehold to fund capital expenditure. The receipt can therefore be used to fund capital expenditure such as affordable housing or regeneration projects or repayment of HRA debt.
- 7.1.3 In August 2014 the council's agent, Cluttons, originally valued the freehold of the land at £700,000. After negotiation and clarification on assumptions made within the valuation process, Cluttons recommends the Council's acceptance of the Brighton Lions offer of £670,000. The current freehold sale price was negotiated and agreed in good faith between the relevant chartered surveyors in April 2015. The council's valuer has advised that, as the period of the current lease diminishes, the value of the freehold would increase, however not materially over the period since the price was agreed in April and that it is not considered best practice to seek in to increase the offer of £670,000 that has been agreed in good faith.

7.1.4 Subject to Committee's approval for the sale of this freehold, in accordance with the councils accounting policies, the capital receipt will be retained in the council's capital receipts reserve until a decision is made for its use either to support a capital scheme or repay debt. This decision would require approval by the Policy & Resources Committee.

*Finance Officer Consulted: Susie Allen*

*Date: 10.09 .2015*

7.2 Legal Implications:

7.2.1 Under section 32 of the Housing Act 1985 land held by the council for housing purposes can only be disposed of with the consent of the Secretary of State. Consent may be given either generally or in relation to particular land. The General Housing Consents 2013 allows a local housing authority to dispose of land for a consideration equal to its market value.

7.2.2 Under the council's constitution, the disposal of land must be referred to the Policy & Resources Committee for determination. The Head of Law would complete the surrender of the lease and freehold disposal of the land, subject to such nomination agreement that is agreed between the parties.

*Lawyers Consulted: Liz Woodley; Joanne Dougnaglo*

*Date: 07/01/15*

7.3 Equalities Implications:

This Brighton Lions scheme addresses the needs of older people in the city.

7.4 Sustainability Implications:

There are none to report.

