

## LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Sukvinder Kalsi, Director of Finance

**Date:** 07/06/2023

**Subject:** Council intervention in the local Supported Housing Market to acquire five supported housing schemes

**Report of:** Director of Finance, in consultation with the Cabinet Members of Finance and Reform, Children Services and Social Inclusion and Community Safety and the Assistant Director, Legal Services

**Report author:** Jonathan Skaife, Head of Corporate Property (Acting)

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### SUMMARY

Shepherds Bush Housing Group are disposing of supported housing property in the borough. Disposals pose varying degrees of risk to the wellbeing of occupants who are both local residents and Council service users across Adult Social Care, Children's Social Care and Community Safety.

Following an assessment of the social and financial implications for each service area and related property for sale, a case is established to acquire a portfolio of five properties with implications for Children's Social Care and Community Safety (Appendix 1). Robust due diligence has been undertaken on both the properties and the management agreements which demonstrates that the acquisition price agreed represents excellent value for money and the management agreements are appropriate for novation.

A Leader's Urgent Decision report dated 10 March 2023 delegated authority for the purchase of five SBHG properties to the Director of Finance, in consultation with the Cabinet Members of Finance and Reform, Children Services and Social Inclusion and Community Safety and the Assistant Director, Legal Services. The agreed purchase price and associated acquisition costs are included in exempt Appendix 1. Approval to novate the existing arrangements with incumbent managing agents and providers is also requested, summarised in Appendix 3.

### RECOMMENDATIONS

1. To agree that Appendices 1, 2 and 3 are not for publication on the basis that they contain information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
2. To approve one off capital investment for the acquisition of five properties (including purchase price, legal fees and stamp duty) as detailed in exempt Appendix 1, to be funded from borrowing.
3. To enter into the contract for sale and transfer deeds for each property with Shepherds Bush Housing Association

4. To approve the novation of Housing Management Contracts between current providers and Shepherds Bush Housing Association to the Council, to enter into the associated novation agreements and to delegate to the Assistant Director of Legal Services in consultation with the Assistant Director of Research & Innovation the terms of such further Housing Management Contracts as are required with the same providers when they expire.
5. To note the implications of the Greater London Authority grant associated with the properties explained in paragraph 7.

**Wards Affected:** All

<b>Our Values</b>	<b>Summary of how this report aligns to the H&amp;F Values</b>
Building shared prosperity	Ensuring more secure accommodation is an enabler for service user wellbeing and prosperity.
Creating a compassionate council	The case for intervening in the Supported Housing market through acquisition is being pursued to ensure residents wellbeing.
Doing things with local residents, not to them	The business case for acquisition is being developed in consultation with key stakeholders.
Being ruthlessly financially efficient	Robust business case appraisals have been undertaken to ensure ruthless financial efficiency and value for money.
Taking pride in H&F	Hammersmith and Fulham Council are proud to maintain a strong Supported Housing offer in the borough
Rising to the challenge of the climate and ecological emergency	Acquired properties will be included in the Council's commitments to the climate and ecological emergency

## **Financial Impact**

The financial implications of the proposed property acquisitions are detailed in Appendix 1, the contents of which are exempt for commercial reasons.

*Implications provided by Kellie Gooch, Head of Finance (Environment), 06 June 2023 and Tony Burton, Head of Finance (Children's Services and Education), 06 June 2023*

*Verified by Andre Mark, Head of Finance (Strategic Planning and Investment), 06 March 2023*

## **Legal Implications**

Property Purchases

Section 120 of the Local Government Act 1972 enables the Council to acquire land (either within or outside of the borough) by agreement for the following purposes:

- (a) any of its statutory functions; or
- (b) the benefit, improvement or development of its area

The Council's duty to provide supported accommodation is governed by a variety of legislation, including (but not limited to) the following: Housing Act 1996, Children (Leaving Care) Act 2000, Care Act 2014, Domestic Abuse Act, Equality Act 2010, Domestic Abuse Act and Equality Act 2010. Accordingly, by acquiring the properties, the Council will be ensuring the provision of supported housing is maintained and it is able to carry out its various duties in accordance with the aforementioned statutory frameworks.

It will be necessary to carry out the due diligence on each property to be purchased. The Council has employed external solicitors to carry out the necessary due diligence and provide legal advice on the acquisitions. This advice is detailed in Appendix 2, the contents of which are exempt in accordance with Section 100I of the Local Government Act 1972. Further, due to the nature of the use of the properties, the property addresses are confidential.

*Implications provided by: Afshan Ali-Syed, Senior Property Solicitor, Legal Services, 1<sup>st</sup> June 2023 and verified by [*

#### Novation Agreements

The sale of the properties to the Council is conditional on the Council entering into pro forma novation agreements for the novation of Housing Management Agreements relating to each of the properties. Once signed, the Council will have the same obligations under the HMAs as currently undertaken by SBHG. Details of the properties, housing management providers and management agreements are summarised in Appendix 3.

*Angela Hogan, Chief Solicitor (Contracts and Procurement) 17<sup>th</sup> March 2023*

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### **Background Papers Used in Preparing This Report**

None

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### **DETAILED ANALYSIS**

#### **Background and Context**

1. SBHG have taken the decision to divest from supported housing sector and focus on their core business of general needs housing. To that end, they have taken the decision to dispose of their entire supported housing stock – via portfolio sale.
2. SBHG's supported portfolio consists of 36 schemes, of which 26 are in the borough. The bid process commenced on 10 February 2023 and concluded on 24 March 2023.

3. In response, the council considered, on a business case basis, the acquisition of a range of properties from the portfolio and concluded, through a mix of viability and service risk assessments, to pursue the purchase of five schemes ahead of SBHG's published sale process. The due diligence undertaken demonstrates the acquisition price represents value for money and is best value compared to acquiring alternative properties on the open market.
4. The council submitted an offer to SBHG for the five properties (schemes) which has been accepted (see exempt Appendix 1), following which secured exclusivity on these properties, meaning SBHG will not consider offers from other parties. The council and SBHG agreed to work towards exchange of contract for the acquisition as soon as possible. Exchange will require payment of 10% deposit at exchange, with 90% paid on completion.
5. The reason for the acquisition is to mitigate the risk of:
  - i. losing the properties to another bidder who might seek to convert the assets to alternative uses (as they have unrestricted use), which could have equalities implications for occupants and drive costs to the council securing alternative accommodation.
6. Acquiring the properties provides the Council with greater control to protect vulnerable residents. In relation to three young people's schemes, Children's Services have established that the loss of the 29 bed spaces in the schemes will be detrimental to stability for the young people currently placed in the schemes. This is because they would likely need to be moved to placements out of the borough and away from their community and network with implications for their outcomes. With regard to the two refuges, Community Safety have indicated that tenants housed in these properties are particularly vulnerable to homelessness. The two refuges (comprising 14 bed spaces) offer vital support to people fleeing domestic abuse at the point of crisis and empower them to ultimately move on and live independent lives, free from violence and fear. Currently, there is no suitable alternative accommodation identified for a seamless relocation of these services should that be required.
7. It should be noted that all five properties are being sold with a covenant relating to an historic Greater London Authority (GLA) grant of £0.963m. The grant was secured by SBHG on the condition that the properties are used for supported housing. The grant conditions remain in perpetuity therefore should, in the future, the council decide to use the properties for purposes other than the provision of supported housing, the grant of £0.963m may be required to be paid back to the GLA or more likely need to be repurposed for similar, alternative provision. This would be dealt with if and when the need arises.
8. Completion of the acquisition follows resident consultation as required by the housing regulator which resulted in no negative response to the sale and purchase arrangements and resolution of adverse possession issues which has been resolved through an indemnity provided by SBHA.
9. Alongside negotiation, the Council also instructed expert valuation advice on the 5 properties using Wilmotts, a reputable agency. Based on their advice, the negotiated

purchase price represents excellent value for money for the council compared with both open market value and current use value (see exempt Appendix 1).

10. Initial results of the financial appraisals of the acquisition indicate that, on a portfolio basis, the five schemes will not require additional ongoing funding from the service areas, beyond the rent charged for each bedspace within the schemes (i.e., the rent received from tenants will be sufficient to cover the ongoing maintenance and running costs payable by the Council as landlord). Further financial appraisals will be undertaken on completion of acquisition.
11. External lawyers Sharpe Pritchard have been appointed to achieve exchange of contracts, as well as to advise on the novation of the existing contracts with the managing agents. Their advisory note in respect of the acquisition is in Appendix 2, and their advisory note regarding the novation of contracts is in Appendix 3. These support the recommendation to novate the contracts and complete the acquisitions of the properties.

### **Options and Analysis**

12. Doing nothing (not recommended) may put residents and service users at risk from local housing association divestment.
13. Pursuing alternative properties on the market is not recommended considering the properties for sale are ideally suited to current provision and unique in offering occupants continuity of accommodation. Additionally, it is not expected that suitable alternative properties can be secured within the borough at better value for money than the negotiated purchase price.

### **Reasons for Decision**

14. The negotiated purchase price represents excellent value for money for the Council based on both existing use and unrestricted value of the assets. In the case of all five schemes, which comprise of a total of 43 bed spaces, if the Council did not acquire the existing properties, it would be exposed to the costs of securing alternative accommodation, at considerably higher costs, as no suitable alternative in-borough provision/capacity is available at present.
15. Acquiring the properties provides the Council with greater control to protect vulnerable residents. This will enable the Council to safeguard existing services, avoiding potential adverse social and financial implications that could result from a change in ownership.

### **Equality Implications**

16. Residents with protected characteristics in receipt of Council support are occupying supported housing units for sale.
17. Intervention in the supported housing market is an effective strategy to protect residents with protected characteristics including children in care.

## **Risk Management Implications**

18. The report recommends acquiring properties which are about to be divested by local housing associations, demonstrating the business case for doing so and that funding is available. Without the Council's intervention, the sale of these properties may put vulnerable residents who are currently housed in these properties at risk, including their being able to remain resident in the borough, being able to access support networks and supporting their health and wellbeing and achievement of life outcomes. Acquisition is in line with the objective of creating a compassionate council.
19. Appendix 1 demonstrates that the acquisition price agreed demonstrates value for money. This is in line with the objective of being ruthlessly financially efficient.

*David Hughes, Director of Audit, Fraud, Risk and Insurance, 20 March 2023*

## **Climate and Ecological Emergency Implications**

20. Acquiring the properties enables the Council to invest in their decarbonisation and wider environmental performance as part of its commitment to respond to the climate and ecological emergency.

*Hinesh Mehta, Head of Climate Change, 20 March 2023*

## **Property Implications**

21. Sufficient due diligence has been undertaken to ensure a robust understanding of property liabilities and rental potential has informed the acquisition decision and price agreed. e.g., condition surveys, valuations etc.
22. Property finance has been arranged in a cost-effective way considering financing options. Rental rates will be reviewed for the properties and set considering market appraisal and regulatory constraints.
23. The implications of the Council's commitment to net zero will require working through in relation to properties acquired, but this will not be possible in the timescales available for acquisition.

*Jonathan Skaife, Acting Head of Commercial Property*

## **LIST OF APPENDICES**

- Exempt Appendix 1 – Financial Implications
- Exempt Appendix 2 – External legal advice: Property Acquisitions
- Exempt Appendix 3 – External legal advice: Contract Novations