

Purchase of Homes at Phase 3, Spitfire Green, New Haine Road for Affordable Rent

Overview and Scrutiny Panel 18th June 2024

By	Ashley Jackson, Head of Housing & Planning
Cabinet Portfolio Member	Cllr Helen Whitehead, Deputy Leader and Cabinet Member for Housing
Key Decision	Yes
Decision classification	Unrestricted
Call in status	Yes
Ward:	Manston Villages

Purpose of the Report

This report invites members of the Overview and Scrutiny Panel to review the proposals for purchasing 32 x section 106 affordable rent units at Phase 3 of Spitfire Green, New Haine Road, Ramsgate for £4,050,000 and £212,000 for associated costs.

Recommendation(s):

Members of the Overview and Scrutiny Panel are asked to:

Note and scrutinise the report and consider any representations to Cabinet in advance of its meeting on 25th June 2024.

1. Summary of Reasons

- 1.1 To review proposals to purchase 32 new affordable homes Section 106 homes, using the additional capital budget, to ensure delivery of the homes at an affordable rent.

2. Background

- 2.1 Council has recently approved an accelerated affordable housing development programme of at least 400 new homes, constructed or acquired, by 2027.
- 2.2 Section 106 of the Town and Country Planning Act 1990 provides an opportunity for local planning authorities to negotiate with housing developers for the provision of affordable housing, on qualifying sites. The council's local plan policies set out a preference for these requirements to be discharged through the provision of affordable homes within the application site.
- 2.3 These agreements require developers to transfer completed homes to an affordable housing provider at a value that makes an affordable rent viable. This means that the

developer effectively provides the necessary subsidy in the form of a discounted purchase price below market value. Officers have been contacted by a number of developers who have been unable to secure an affordable housing provider partner to purchase section 106 units and deliver affordable homes.

- 2.4 Failure to secure an affordable housing delivery partner can lead to developers requesting that the S106 agreement be amended to provide a commuted sum in lieu of on site homes.

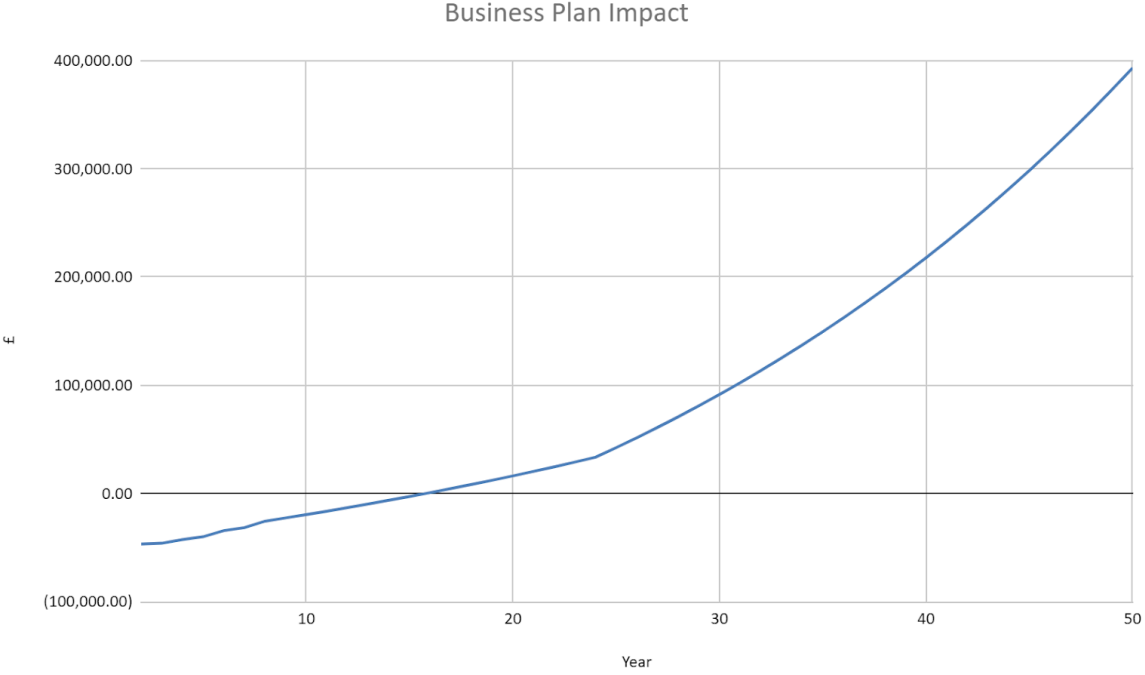
3. Relevant Issues

- 3.1 Officers were contacted by BDW, owner of the development known as Spitfire Green, New Haine Road, Ramsgate, who are required to deliver 30% affordable housing on site. As per policy 70% of this is required to be affordable rent this being 32 units. They have been unable to secure an affordable housing provider to deliver these homes.
- 3.2 The capital cost for the 32 homes is £4,050,000 and £212,000 for associated costs.
- 3.3 Officers have developed a detailed viability assessment tool to assess the viability of individual schemes, which is used to inform a go/no-go decision for individual proposals. It is essential for the viability of the overall HRA programme that only schemes that have a positive impact on the HRA Business Plan are delivered.
- 3.4 To be viable, schemes need to show an overall surplus over a 30 or 50 year timescale, depending on the duration of any borrowing. The assessment tool operates like a mini business plan and takes into account all relevant costs and income, including rent income, capital costs, professional fees and project management, the costs of borrowing and management, maintenance costs and depreciation over the lifetime of the homes.

A summary of the income and costs for the proposed purchase are shown in the table below.

Year	1	2	3	4	16
Revenue Income					
Rental income	(217,064)	(217,064)	(223,576)	(230,283)	(328,328)
Revenue Costs					
Management Contribution	5,120	5,376	5,645	5,927	7,517
Revenue Repairs	2,432	2,554	5,363	5,631	42,846
Major Repairs (Capital contrib)	44,480	46,704	49,039	51,491	65,303
Insurance	6,400	6,720	7,056	7,409	9,396
Saving before MRP and interest	(158,632)	(155,710)	(156,473)	(159,825)	(203,266)
Interest on debt	202,445	202,445	202,445	202,445	202,445
Net cost/(saving)	43,813	46,735	45,972	42,620	(821)

3.5 This shows that the proposed purchase would generate a cash flow deficit in year 1 of £43,813 with a break even point in year 16, with surpluses accumulating between year 16 and year 50. The project shows a surplus over a 30 to 50 year period, and a cash flow summary is shown in the table below:



3.6 As the homes have been designated as affordable homes in the planning consent and section 106 agreement, they have been designed specifically for that purpose and accordingly are considered appropriate for the HRA, in line with the needs of households on the council’s register or those living in temporary accommodation. There is a significant level of need for 1 bedroom homes, as well as for larger family homes. It is proposed by the developer that these units will meet EPC rating of B and construction will begin in Early 2025.

- 3.7 The unit sizes and the mix of dwellings are as follows:
- 18 x 1 bed units
 - 14 x 2 bed units

3.8 A provisional offer of £4,050,000 has been made to the developer and subject to contract, legal due diligence, formal valuation and full approval this offer has been accepted. An additional amount of £212,000 has been budgeted for stamp duty land tax and legal/valuation fees.

3.9 It is proposed that the new homes are let in accordance with the council’s adopted allocations policy. The allocations policy provides for the council to agree a local lettings plan for new homes, and in this case a local lettings plan will be agreed to ensure that 50% of the homes are let to people moving out of temporary accommodation, with the remaining homes let to priority applicants from the council’s Housing Register. It is also proposed that they are let at an affordable rent, in line with the council’s approved Tenancy Strategy. The Tenancy Strategy defines an

affordable rent, as a rent that is no more than 80% of the local market rent and does not exceed the relevant Local Housing Allowance rate. As a Registered Social Landlord the council is required to consult with Homes England and the Regulator for Social Housing about its rent policy.

3.10 The Council is being very proactive in its approach to what has been described as the 'market failure' across the south east - Councils and developers from Kent, Essex and East Sussex have been discussing the difficulty in sourcing registered providers to take the affordable housing set aside in s106 allocations. Thanet is among those councils seizing the opportunity and stepping in. This is actually having multiple positive impacts, as it is:

- Ensuring those affordable homes are not lost to the open market
- Providing homes that can be not only let to those on the housing register but directly let through local lettings plans to those in temporary accommodation
- Actually helping developers with their investments in our district

3.11 However, the changes to the multiple dwellings relief for Stamp Duty Land Tax (SDLT) that were announced in the Spring 2024 budget have provided a further obstacle to our due diligence and viability tests to buy larger numbers of homes.

3.12 The Council has written to the Chancellor of the Exchequer to raise with them the concerns we have. Of course, we realise the rationale for bringing the measure was to prevent perceived abuse of the rules and speculative claims for relief, but increasing the amount of SDLT we pay on larger acquisitions has the significant potential to adversely hamper our attempts to deliver the positive outcomes listed above

4. Alternative Options

4.1 Do not purchase the Section 106 units, which would mean that the developer would negotiate a commuted sum, losing the affordable housing units.

5. Consultation

5.1 Corporate consultation has taken place with colleagues from Legal, Finance and Tenant and Leasehold Service. We have also consulted with Cllr Helen Whitehead, Deputy Leader and Cabinet Member for Housing.

6. Corporate Implications

6.1 Finance and Resources

6.1.1 The detailed financial implications are set out in the body of this report. Notably, the financial modelling undertaken has demonstrated that across the long-term the HRA business plan will benefit from the proposed acquisitions. The Council is commissioning further advice from professional experts in this field to review our financial model; assessing whether any improvements can be made, with the overarching objective of maximising the opportunities to acquire properties in both the Housing Revenue account and the General Fund.

In addition, we have sought initial advice concerning Stamp Duty Land Tax(SDLT) liabilities in relation to this purchase. The figures included in the appraisal are based on our initial advice, although final SDLT advice will be taken as part of the acquisition.

6.2 Legal and Constitutional

- 6.2.1 In accordance with the provisions set out in Article 6 of the Council's constitution the Overview and Scrutiny Panel may make reports or recommendations to Cabinet in respect of the discharge of any function. Cabinet must then consider and respond to any recommendations made.
- 6.2.2 Section 1 of the Localism Act gives local authorities a general power of competence and the power to do anything a private individual is empowered to do. This gives the council the power to purchase the homes as proposed in this report.
- 6.2.3 Under section 120 of the Local Government Act 1970 a local authority may acquire by agreement any land, whether situated inside or outside their area, for any purpose for which they are authorised by the Act (or any other enactment to acquire land) notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it is acquired, any land acquired under this subsection may be used for the purpose of any of the Council's functions.
- 6.2.4 Under section 111 of the Local Government Act 1972, a Local Authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive of incidental to the discharge of any of their functions.
- 6.2.3 The proposals detailed in this report are consistent with the Council's commitment to deliver affordable housing. They are also consistent with the provisions of S106 of the section 106 of the Town and Country Planning Act 1990.

6.3 Council Policies and Priorities

- 6.3.1 This proposal supports the Council Corporate Statement 2024-2028
- *To deliver the housing we need*

6.4 Risk

- 6.4.1 Acquisition and development activity has within it inherent risks. Officers strive to identify and manage risk at each stage of projects. The acquisition project will have a risk register that is reviewed throughout the lifecycle of the project by the Housing Strategy & Projects Team. Risks around acquisition activity are sought to be mitigated through regular review and the appointment of professional expertise to provide legal due diligence, and accredited valuation advice to ensure value for money, in terms of the cost of the project.

6.5 Climate Change and Biodiversity

- 6.5.1 The new homes are being design to EPC B standard for energy efficiency, helping to reduce the cost of hot water and space heating for residents and reducing carbon emissions from domestic heating.

7. Equality, Equity and Diversity Implications

- 7.1 Cllrs are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.
- 7.2 Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.
- 7.3 This report relates to the following aim of the equality duty: -
- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
 - To advance equality of opportunity between people who share a protected characteristic and people who do not share it
 - To foster good relations between people who share a protected characteristic and people who do not share it.
- 7.4 An Equalities Impact Assessment has been completed in respect of this proposal. The new homes will be let in line with the council's allocations policy, which has had an Equalities Impact assessment completed

8. Crime and Disorder Implications and Community impact

- 8.1 The housing department regularly deals with issues relating to Anti- Social behaviour. Despite often being described as 'low-level crime', existing evidence suggests it can result in a range of negative emotional, behavioural, social, health and financial impacts. People's understanding of what constitutes Anti-social behaviour can be very different and can affect people in very different ways. For some people it means living next door to nuisance neighbours, for other people it's about litter and dog fouling or graffiti on the street. Often it can include people acting in an aggressive, intimidating or destructive manner.
- 8.2 The Community Safety department and the Tenant & Leasehold team have policies and procedures to deal with issues which arise due to ASB.

9. Subject History

- 9.1 The accelerated affordable housing programme was agreed by full council in July 2023.

Appendices

Annex 1: EQI

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Report Sign Off

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