

Report No.

London Borough of Bromley

PART 1 – FOR PUBLICATION

Decision Maker: EXECUTIVE
FOR PRE DECISION SCRUTINY AT THE RENEWAL,
RECREATION AND HOUSING POLICY DEVELOPMENT AND
SCRUTINY COMMITTEE

Date: Tuesday 30th March 2021
Wednesday 31st March 2021

Decision Type: Non-Urgent Executive Key

Title: PROPERTY ACQUISITION SCHEME PROPOSAL: BEEHIVE
PHASE 2

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Chief Officer: Sara Bowrey, Director of Housing, Planning, Property and Regeneration

Ward: (All Wards);

1. Reason for report

This report advises on the option to lease an additional 31 former Hyde social housing properties from Beehive for use as accommodation to help reduce the current pressures in relation to homelessness and temporary accommodation.

2. **RECOMMENDATIONS**

2.1 That Members of the Renewal, Recreation and Housing Policy Development and Scrutiny Committee, review the content of this report and provide their comments to the Executive.

That Members of the Executive are asked to:

2.2 Agree to enter into an agreement for lease for the acquisition of the leasehold properties identified in this Report and to delegate authority to the Director of Housing, Planning and Regeneration to agree final terms with Beehive for the acquisition of the leases in consultation with the Director of Corporate Services and the Director of Finance and to enter into the leases on the dates specified in the agreement.

2.3 Approve the allocation of £50k budget for the survey work funded from the Housing Investment Fund earmarked reserve.

- 2.4 Delegate authority to the Director of Housing Planning and Regeneration in consultation with the Director of Corporate Services and the Director of Finance to agree final terms for the disposal of the properties identified in this Report by way of the grant of underleases to Orchard & Shipman for terms expiring on the 31st March 2024 and at the rental levels identified herein, with management arrangements for the properties to be included within the existing contract held with Orchard & Shipman.

Impact on Vulnerable Adults and Children

1. Summary of Impact: The accommodation provided ensures that the Council is able to meet its statutory responsibilities in respect of housing
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Corporate Policy

1. Policy Status: Existing Policy: Further Details
 2. BBB Priority: Supporting Independence: Further Details
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Financial

1. Cost of proposal: Estimated Cost: £50k for property surveys
 2. Ongoing costs: Net savings of £192k plus £2k surplus in year 1 (future years will vary depending on RPI and LHA levels)
 3. Budget head/performance centre: Operational Housing
 4. Total current budget for this head: £7.7m
 5. Source of funding: Housing Investment Fund earmarked reserve
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Personnel

1. Number of staff (current and additional): N/A
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory Requirement: Further Details
 2. Call-in: Applicable: Further Details
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Procurement

1. Summary of Procurement Implications:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The council currently has more than 1800 households accommodated in various forms of temporary accommodation with around 1000 of these in insecure nightly rate accommodation. The units provided under this proposal would provide move on opportunities for 31 households into settled accommodation.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1. For Bromley, like most London boroughs one of the most significant long-term cost pressures is the impact of homelessness and provision of temporary accommodation.
- 3.2. There are currently approximately 1,800 households in Temporary Accommodation (TA), of which just over 1,000 are in costly forms of nightly paid TA, putting a continued strain on the Council's revenue budget
- 3.3. The Council therefore continues to seek all opportunities to increase the supply of affordable housing and reduce the costs in providing temporary accommodation to meet statutory rehousing duties and in particular the reliance on costly forms of nightly paid accommodation.
- 3.5. Beehive approached the Council with a proposal for the financing and purchase of 50 properties from Hyde Housing Association in locations within and outside the Borough (with the possibility of further properties at a later date) to then be leased to the Council for use as a affordable housing. This scheme was approved by Leader decision in October 2021 and these properties have now been acquired. Beehive have now approached with a proposal for a further 31 units. As with the first phase, Beehive have obtained funding to acquire the properties from Hyde Housing Association which is conditional upon Beehive granting leases and underleases to the Council back to back with their acquisition of the properties. The acquisition of these leases from Beehive will reduce the Council's reliance on costly nightly paid accommodation.
- 3.6. Under the proposal, Beehive will secure funding for the purchase of the properties. The properties will be leased to the Council for a period of 135 years at rents equivalent to 74% of the Local Housing Allowance applicable for each unit, increasing by RPI each year (collared at zero and 5%).
- 3.7. The leases will be for terms of 135 years, however on the 50th year of each term the rent will reduce to a peppercorn and the Council can then exercise an option to acquire the properties from Beehive for £1.
- 3.8. If the council enters into the Agreement for Lease they will be obliged to take the leases irrespective of whether the properties meet the required standards following surveys. Surveys have therefore been commissioned to identify whether the properties meet the council's requirements. Terms are being finalised for the substitution of any defective premises with a replacement property that meets the Council's requirements before the council enters into the agreement for lease. A date for purchase will be subject to completion of the survey work however this would be prior to the end of the stamp duty holiday.
- 3.9. It is proposed that these vacant properties will initially be held in the General Fund as the Council's duties in respect of homelessness fall outside of the Housing Revenue Account. On completion of each tranche of leases acquired by the Council from Beehive, the Council will grant underleases to Orchard and Shipman who will be responsible for the maintenance of the properties and for the granting assured shorthold tenancies to households nominated by the Council.
- 3.10. A disposal of General Fund property to a third party will have to comply with the duty imposed in section 123 of the Local Government Act 1972, being the duty to obtain the best consideration reasonably obtainable. The rents payable by Orchard & Shipman under the proposed underleases comply with this duty even though these leases will be for terms of less than 7 years.

- 3.11 The leases from Beehive to the Council permit an underlease to a third party or Wholly Owned Company or Limited Liability Partnership without the prior consent of Beehive.
- 3.12 The existing Council contract with Orchard and Shipman runs to 31st March 2024. During this time, Officers will review the options to manage the properties after this date for Members to agree in due course. This could involve transferring these properties into the Housing Revenue Account and/or leasing them to a Wholly Owned Company/Limited Liability Partnership or to a Registered Provider which will be able to grant assured shorthold tenancies and procure management and maintenance services.
- 3.13 The options appraisal will need to take into consideration other housing initiatives that are under development, such as those set out in the Transforming Bromley: Approach to Building Homes in Bromley report that was considered by the Renewal, Recreation and Housing PDS Committee on 2nd September 2020 which referred to a potential alternative delivery model operating in parallel to the Housing Revenue Account in respect of the provision of private rented accommodation either comprising a single or a group of wholly owned companies.
- 3.14 Specialist legal and financial advice will be required before a decision can be made to set up a Wholly Owned Company or Limited Liability Partnership to advise on any tax, state aid and best consideration implications and to assist with the formal business case that is legally required to set up a company structure.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 The recommendations support children and vulnerable people through the provision of housing supply.

5. POLICY IMPLICATIONS

- 5.1 The Council has a published Homelessness Strategy which sets out the approved strategic policy in terms of homelessness. This includes temporary accommodation provision and reducing the reliance on nightly paid accommodation. The Council already works with a number of providers from the provision and management of temporary accommodation.

6. FINANCIAL IMPLICATIONS

- 6.1 The proposed scheme would produce full year savings to the Council of around £192k per annum on temporary accommodation costs for the 31 properties. On the 50th year of the lease, the rents payable to Beehive reduce to zero and thereafter the leasehold or freehold title will be transferred to the Council with no outstanding debt payable.
- 6.2 In addition, the rental income from the leases to Orchard and Shipman will generate a year one surplus to the General Fund of around £2k per annum.
- 6.3 As set out in paragraph 3.6, the lease payments to Beehive will initially be at 74% of the Local Housing Allowance rates. This has increased from the 69% in the first portfolio for a few main reasons:
- Market interest rates have increased substantially over the past few months.
 - There are two 2-bed properties that have 2 bedrooms plus a third box-room which are marginal so the financial model prudently assumes 2 bed LHA rates.
 - Service charges for leasehold properties are currently awaited from Hyde. The model currently assumes a prudent figure of £600 per annum which compares to an average of £468 on the first portfolio.
 - Corporation tax rates have increased.

- 6.4 The properties have already been identified with Hyde, so the acquisitions can be completed at pace once the necessary legal documentation has been completed, and this reduces or eliminates any risk of the Council having to make lease payments to Beehive without any rental income from tenants.
- 6.5 Within the financial model, there is an allowance of around £105k per annum (increasing by 2.5% per annum) for maintenance and management costs, including service charges, insurance, bad debts and voids. Initially this will be sufficient to cover the costs of Orchard and Shipman providing maintenance and management services, however this may change at a later date if the properties revert to the General Fund and the service is re-tendered or the properties are transferred into the Housing Revenue Account or leased to a wholly owned company or third party.
- 6.6 Stamp duty land tax (SDLT) will be payable on the granting of the leases from Beehive to the Council. This has been accounted for in the financial model and Beehive will pay the actual cost to the Council by way of a reverse premium. The granting of the short term leases to Orchard and Shipman are expected to be exempt from SDLT, as are any subsequent leases to a wholly owned company under group relief arrangements.
- 6.7 A key part of the financial model is how the various cashflows change over time. The lease payments increase by RPI (collared at 0-5%), and rent income from Orchard and Shipman will increase in line with Local Housing Allowance (LHA) levels, which are linked to 30th percentile rent level for the area.
- 6.8 The table below provides a summary of Net Present Value (NPV) scenario modelling carried out on the proposal. This shows the potential impact of LHA rent inflation being lower than RPI (assumed at 2.5%).

Scheme type	Discharge of Duty		
Rent levels	Current LHA		
Number of properties	31		
Rent inflation assumption	2.50%	2.00%	1.50%
	£'000	£'000	£'000
Year 1 surplus/deficit(-) (excl TA savings)	2	2	2
<u>Surplus/deficit(-) (incl TA savings)</u>			
Year 1	194	194	194
Year 25 (present value)	105	70	39
Year 50 (present value)	57	5	-37
Total NPV years 1-50 (excl. asset value)	5,500	3,890	2,450
Estimated asset value in yr 50 (present value)	6,487	6,487	6,487
Total Net Present Value	11,987	10,377	8,937
<u>General Assumptions</u>			
Retail Price Index (RPI) inflation	2.50%		
House Price Index (HPI) inflation	2.50%		
Discount Rate	3.50%		
TA savings inflation	1.00%		
Average current property value	£340k		

- 6.9 This shows that even if LHA rent inflation was at 1.5% compared to RPI assumed at 2.5% for the entire 50 years, the net deficit wouldn't exceed the savings on temporary accommodation until quite late in the scheme (year 36), with the scheme providing a total NPV benefit to the Council of £2.5m (£8.9m including the estimated asset value).
- 6.10 If LHA increased at the same rate as RPI, the NPV benefit would be £5.5m (£12.0m including estimated asset value).
- 6.11 A key risks to the Council is therefore if RPI increase on the lease payments to Beehive exceed the LHA increase on rent payments from Orchard and Shipman. If the LHA increase is lower than RPI for a sustained period then the Council would have the option to mitigate this by disposing of the properties to a wholly owned company which would be able to let them on alternative tenures including up to market rents. This would reduce the savings on temporary accommodation budgets, but would ensure the continued financial viability of the scheme overall.
- 6.12 In particular, Beehive have looked at property data estimates for these properties which identified that the 4 properties with the greatest difference between open market rent and LHA rent levels would generate additional income of around £25k per annum, which provides reassurance that this mitigation would materially improve the financial model if required.
- 6.13 From an accounting perspective, the leases from Beehive would be treated as finance leases, so the Council would recognise a long term liability on its balance sheet for the minimum lease payments due, and the properties would be accounted for as Property, Plant & Equipment. The minimum lease payments total £15.2m over the 50 years; however, this would only occur if RPI is zero or negative for the entire 50 year term. Assuming a more prudent RPI figure of 2.5% per annum as in the table in 6.8 above, the total lease payments would be £29.6m.
- 6.14 External advice may need to be sought on the accounting treatment if the Council later transfers the properties into the HRA and/or decides to transfer the properties to a wholly owned company, especially around the reporting requirement for group accounts. Current accounting treatment of the lease to Orchard & Shipman (or to a wholly owned company) would likely be an operating lease which wouldn't impact on the balance sheet, but this is expected to change with the adoption of IFRS16 which would mean a similar balance sheet treatment to the leases from Beehive.
- 6.15 As set out in paragraph 3.8, the Council will need to carry out surveys of the proposed properties which are estimated to cost around £50k, and it is requested that this cost is funded from Housing Investment Fund earmarked reserve.

7. LEGAL IMPLICATIONS

- 7.1 The Council has the power to acquire property for housing purposes by virtue of section 9(1) of the Housing Act 1985. Pursuant to the provisions in Schedule 1 of the Housing Act 1985, the Council is able to hold property for use as Temporary Accommodation within the General Fund since a tenancy granted in pursuance of the homelessness function under Part VII of the Housing Act 1996 falls outside the scope of the HRA.
- 7.2 The grant of the underleases to Orchard & Shipman, if for a term of less than 7 years will be exempt from the duty imposed upon the Council in section 123 of the Local Government Act 1972 to obtain the best consideration reasonably obtainable.
- 7.3 Any contract to manage the properties acquired will need to be entered into in compliance with the Council's Contract Procedure Rules and the Public Contracts Regulations 2015 if the value exceeds the relevant threshold.

8. PROCUREMENT IMPLICATIONS

- 8.1 No specific procurement action as the management arrangements for the properties are already in place via the existing Orchard & Shipman contract.
- 8.2 The paper refers, in paragraph 3.13, the intent to consider appropriate procurement action for future management of properties in due course.

Non-Applicable Sections:	Personnel
Background Documents: (Access via Contact Officer)	