



ADUR DISTRICT  
COUNCIL

Adur Joint Strategic Sub Committee  
27 September 2023

Key Decision Yes

Ward(s) Affected: Mash Barn

**Using Right to Buy receipts to fund Hidden Homes projects at Daniel Close & Gravelly Crescent, and entering contract for delivery**

**Report by the Director for Place**

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**Executive Summary**

**1. Purpose**

- 1.1. This report follows the Joint Strategic Committee approval, given on 6th October 2020, for a development programme of Small Sites in Adur to provide new, high quality homes let at affordable rent levels, and the subsequent start on site on five of the nine sites identified for development.
- 1.2. The report takes stock of the current challenges faced by the Council in securing external grant for new housing schemes as a result of the regulatory notice issued to Adur District Council by the Regulator of Social Housing, and recommends an approach to the delivery of homes at two Small Sites projects, Daniel Close and Gravelly Crescent (the Sites), that avoids the need for external grant.
- 1.3. The report seeks to update Members on the tender process adopted and implemented to secure a contractor at Daniel Close and Gravelly Crescent, outlines the procurement approach and seeks approval for

the selection of a contractor to develop the Sites using Lewes District Council's Modular Housing Project Framework.

## **2. Recommendations**

2.1. The Joint Strategic Sub-Committee is recommended to:

- 2.1.1. Note the progress made to date in bringing the 16 new affordable homes forward at Daniel Close and Gravelly Crescent;
- 2.1.2. Approve the virement of £1.030m of existing Right to Buy receipts (funding which is ring fenced for securing new affordable housing in Adur), and the virement of £870k additional right to buy receipts received in 2023/24 to enable the construction work and projects to progress in lieu of Homes England funding, with any shortfall funded from PWLB borrowing.
- 2.1.3. Approve the award of a construction contract to Boutique Modern to build out the two schemes procured through the Lewes Modular Housing Framework, of which Adur District Council is a named beneficiary, for the sum set out in this paper's appendix.

## **3. Context**

- 3.1. Adur and Worthing Councils' Housing Strategy, 'Enabling Communities to thrive in their own Home', was adopted in April 2020. Originally running to March 2023, it has been extended to cover the period until March 2024. One of the three key objectives is to 'Improve the levels of affordable housing supply' in the context of increasing prices and rents. Based on demographic projections, there is a need for 653 additional affordable dwellings (of all tenures) per annum across the region.
- 3.2. The Housing Strategy recognised that, in order to stand a chance in delivering the number of affordable homes needed, a multi-partner

approach was needed, and a commitment to the delivery of affordable housing directly by both Adur and Worthing Councils was included.

- 3.3. This commitment was reiterated in the Council's Development Strategy adopted in March 2021. Named 'Delivering Pathways to Affordable Homes', a target of 250 homes built by the Councils was adopted between the period 2021 and 2025. The Councils' are on track to achieve this target in terms of number of units started. Adur District Council currently has over 800 households on its housing register waiting for affordable rented accommodation.
- 3.4. A programme of housing delivery on small, underutilised sites within the ownership of Adur District Council forms part of these numbers. Named the Small Sites Programme, it includes the construction of 49 homes for affordable rent across nine sites in Adur. In October 2020, a budget of £15.935m was approved to enable the projects to be built out. Five of these projects are on-site and due to complete within the next 6 months.
- 3.5. Affordable housing schemes at two sites in Lancing, Daniel Close and Gravelly Crescent, formed part of this programme. Consisting of 16 homes across both sites, they are two of the biggest in the Small Sites Programme.
- 3.6. In the paper approved in October 2020, 'Maximising Space for Homes in Adur', external funding was expected from Homes England to allow the Hidden Homes projects to move forward. Homes England funding was secured for the majority of projects which are now on site.
- 3.7. However, the projects at Daniel Close and Gravelly Crescent can no longer secure Homes England funding due to the regulatory notice issued by the Regulator of Social Housing on Adur District Council. If the project is to progress, an alternative subsidy has to be found. Right to Buy receipts are monies received by the Council from sale of homes to eligible Council tenants, and they are ring fenced to replace the stock lost.
- 3.8. Following consideration of the procurement strategy, Council officers are now in a position to seek approval to let the construction contract to develop the Daniel Close and Gravelly Crescent schemes.

#### **4. Issues for consideration**

- 4.1. Daniel Close and Gravelly Crescent makeup 'Lot 2' of the Small Sites Programme. As mentioned above, Adur District Council has already entered into build contracts for Lot 1 and Lot 3 and these projects are on site and progressing well.
- 4.2. The project at Daniel Close consists of the demolition of existing garages and the design and build of nine new homes with associated landscaping and parking provision. The accommodation provided includes seven two-bedroom homes and two three-bedroom wheelchair accessible homes. Planning permission was granted in December 2022.
- 4.3. The scheme at Gravelly Crescent also consists of the demolition of garages alongside the construction of seven new homes and associated works. The proposals include two two-bedroom houses, four three-bedroom houses and one one-bed bungalow for wheelchair users. Planning consent was awarded in December 2022.
- 4.4. **Using Right to Buy receipts as top-up funding to ensure each scheme is viable**
  - 4.4.1. The projects at Daniel Close and Gravelly Crescent were awarded planning consent in December 2022. At this point, the viability of each scheme was revisited. Due to inflation and cost increases being felt in the sector, the cost estimate for each scheme had risen. However, Homes England, as the Government's Housing and Regeneration Agency, had recognised the impact cost increases were having in the sector and on the delivery of affordable homes, and grants were being increased to offset the additional costs.
  - 4.4.2. In February 2023, Adur District Council referred itself to the Regulator of Social Housing (RSH) due to the challenges it was facing discharging its obligations to tenants as landlord. After an investigation, in May 2023, the RSH found Adur District Council to be in breach of the Home Standard parts 1.1 and 1.2.
  - 4.4.3. In July 2023, Adur District Council received a letter from Homes England stating that '*where the Grant Recipient is ... in breach of the Homes Standard and Homes England is not in receipt of evidence of suitable progress being made in relation to the RSH*

*Programme, Homes England does not anticipate agreeing to any Additional Scheme under the Agreement.* This means that whilst ADC is found to be in breach of the Homes Standard, Homes England are unlikely to fund additional housing development schemes.

- 4.4.4. Adur District Council has an improvement plan in place and approved by the RSH, and is making good progress on remedying the issues associated with the breach. However, it is unclear how long the regulatory notice will be in place.
- 4.4.5. Delivery of new schemes is a key part of the road to improvement. Bringing new stock forward supports economies of scale within Adur Homes and requires much less management and maintenance than existing stock. In order to avoid mothballing development projects, alternative sources of funding are being investigated until we are eligible to apply for Homes England funding once again.
- 4.4.6. Delivery of the schemes at Daniel Close and Gravelly Crescent will cost c. £5.5m (including 10% contingency).
- 4.4.7. The main indicators of viability for these projects are Net Present Value (NPV) and when the debt interest can be covered by rental income. If a project provides a positive NPV and can cover its debt in Year One, it is deemed to be viable (all other things being equal, e.g. acceptable cost to value). By covering debt repayments through income in Year One, there is no negative impact on the HRA.
- 4.4.8. In order to achieve these hurdle rates, a subsidy of £1.9m is required, approximately 35% of the project value.
- 4.4.9. It should be noted that in order to achieve these hurdle rates, the rents for these schemes must align with the government's definition of 'Affordable Rent', which is 80% of market rent (and for which we'll need approval of Secretary of State, which is unlikely to be withheld). This is because if the rent for the schemes were capped at Local Housing Allowance Rates then the level of subsidy would be higher than the Council could afford. This is mainly due to inflation in construction and the elevated interest rates that we are borrowing at the moment

(although the HM Treasury introduced a new HRA rate for PWLB Lending on 15 June 2023, solely for use in the HRA and intended primarily for new housing delivery, and equates to 4.65%).

4.4.10. A valuation would be obtained to set the rents at completion, but the pre-construction valuation suggests that rents would be in the region of:-

- One-bed bungalow: £166.15 p/w
- Two-bed house: £230.77 p/w
- Three-bed house: £267.69 p/w

4.4.11. Adur District Council receives income from the sale of Council property through the Right to Buy scheme. At present, the Council is able to keep 100% of the value of each sale. Receipts must be used within 5 years to fund replacement homes and can fund up to 40% of the value of acquisition or development of a home. Any unspent receipts after 5 years must be sent to DLUHC.

4.4.12. Adur District Council currently has around £2.205m of Right to Buy receipts, with £900k of additional monies expected this financial year. The 2023/24 capital programme has earmarked £1.175m of the currently available receipts for the funding the buy back of leasehold properties, leaving available receipts of £1.030m available. In the temporary absence of Homes England funding, it is proposed to vire the available £1.030m receipts to the Hidden Homes budget approved in October 2020 to enable delivery of the 16 houses for affordable rent at Daniel Close and Gravelly Crescent in Lancing. This will mean that funding is dependent on additional right to buy receipts in 2023/24 of £900k, with borrowing required for any shortfall.

#### **4.5. Procurement Process for the Contractor to build the homes at Daniel Close and Gravelly Crescent**

4.5.1. Lot 2 tender documents were originally issued on 27th January 2022, alongside the documentation for Lot 1 and Lot 3 but prior to planning consent being achieved. The deadline for tender submissions was 14th April 2022.

- 4.5.2. Four tender responses were received with W. Stirland identified as the preferred contractor with a weighted score (price and quality) of 85% following evaluation. Boutique Modern was the second place contractor with a good submission both on quality and price.
- 4.5.3. W. Stirland then entered into administration before Adur District Council were able to proceed with a contract award. Due to the challenges in obtaining planning permission which were being felt at the time and the focus put on securing a contractor for Lots 1 and 3 which were in a position to move forward, it was decided to pause the procurement of a contractor for Lot 2.
- 4.5.4. Once planning permission was granted for Lot 2 the Council considered its procurement options. It was felt that running a fresh open tender exercise would delay momentum, and, looking towards the second-place contractor, the Council would be able to make a direct award to Boutique Modern under the Lewes Framework Agreement.
- 4.5.5. It is of course vital that the Council evidences value for money and Members will note that Boutique Modern was invited to update its fee proposal. The updated proposal falls within budget and the cost estimate for the project, and uses existing rates previously procured under the Framework Agreement.
- 4.5.6. It has therefore been demonstrated that the revised contract sum offers Value for Money to the Council as set out in the Exempt Appendix to this report, which contains commercially sensitive financial information.
- 4.5.7. Substantial due diligence of the contractor has been undertaken, including gaining references from other Councils that have delivered schemes with Boutique Modern and visits to some of their development sites. The Council and our advisors are content that as well as offering value for money, Boutique Modern are a competent contractor that would make a good partner for the Council on the Daniel Close and Gravelly Crescent projects.
- 4.5.8. In addition to their competitive tender price and competency, Boutique Modern brings many other advantages, not least in

sustainability and local economic development. Boutique Modern construct their homes fully in a factory in East Sussex before being transported to site and craned in place. This has numerous benefits, including a quicker delivery programme, fewer delays, a reduction in waste, fewer defects, enhanced energy efficiency of homes and lower embodied carbon. Boutique Modern are also committed to using local labour and employing people who have traditionally been shut out of the labour market such as people leaving prison.

- 4.5.9. In 2021, Lewes District Council (acting as the Lead Contracting Authority) and Eastbourne Borough Council identified the significant time and quality benefits of delivering homes through off-site manufactured construction, and further time and cost benefits through appointing a single contractor to deliver a larger pipeline of its medium and small sites. The Councils created a four-year Modular Housing Framework to appoint a single contractor to be the main modular delivery partner to deliver a significant number of residential sites. Both Adur District and Worthing Borough Council are named entities able to access the framework.
- 4.5.10. Boutique Modern was the contractor selected by Lewes District Council to provide the services required by the framework.
- 4.5.11. Therefore, to save time and administration effort in procuring Boutique Modern through the original procurement route and to be doubly sure that our approach is open, transparent and acceptable, it is recommended that Adur District Council contract with Boutique Modern to deliver the homes at Daniel Close and Gravelly Crescent through the Lewes Modular Framework.
- 4.5.12. Boutique Modern have confirmed that they would be able to start on site once vacant possession has been obtained and capacity exists within their factory to begin production of the modules. They have also confirmed that the modules can be designed within the parameters of the planning consent, save for a Section 73 application (minor material amendment) required to change the position of windows to the rear of some of the properties.



- 4.5.13. On consideration of the information above, the procurement process adopted and the exercise to demonstrate value for money, member approval is sought to enter into a contract with Boutique Modern to construct the 16 homes at Daniel Close and Gravelly Crescent, for the sum included in the Exempt Appendix.

## **5. Engagement and Communication**

- 5.1. The Development Team has developed the proposed approach to procurement in full collaboration with the Council's procurement officers.
- 5.2. A robust process of consultation was undertaken prior to submission of the planning application for each scheme. This was undertaken online due to the Covid restrictions that were in place at the time.
- 5.3. A review of the funding options available to subsidise schemes in the absence of Homes England funding was undertaken with colleagues in Finance and Housing in August 2023.

## **6. Financial Implications**

- 6.1. The council currently has £2.205m right to buy receipts available with £1.175m currently earmarked for funding other housing schemes within the capital programme. The remaining receipts available currently total £1.030m. The council has received average Right to buy receipts of £1m per year over the last three years and anticipates additional receipts in 2023/24 of approximately £900k.
- 6.2. If approved the recommendation to vire £1.030m of available receipts to fund the development of Daniel Close and Gravelly Crescent will leave the funding balance of £870k to be met from additional right to buy receipts, with any shortfall having to be met from PWLB borrowing. If borrowing is required the Housing Revenue Account would incur additional costs of approximately £5k for every £100k borrowed.
- 6.3. Right to buy receipts can be used to fund up to 40% of the cost of housing developments. The proposed use of up to £1.9m represents 35% of the Daniel Close and Gravelly Crescent scheme costs.

## **7. Legal Implications**

- 7.1 Under Section 111 of the Local Government Act 1972, the Council has the power to do anything that is calculated to facilitate, or which is conducive or incidental to, the discharge of any of their functions.
- 7.2 s1 Local Government (Contracts) Act 1997 confers power on the local authority to enter into a contract for the provision of making available of assets or services for the purposes of, or in connection with, the discharge of the function by the local authority
- 7.3 As from 1 April 2021 retained receipts from Right to Buy sales can be used to supply homes for social or affordable rent. There is no requirement for replacement homes to be of the same size, location, or tenure as the homes that they replace. These are decisions for the Council to make in accordance with local need.
- 7.4 Entering into contract through the Lewes Modular Housing Framework is following a lawful tender process.
- 7.4 At Appendix 1 there is an additional document which is exempt pursuant to Schedule 12A of the Local Government Act 1972 as the information details commercially sensitive information. This information must be given due consideration and taken into account prior to members reaching a decision.

### **Background Papers**

- Adur & Worthing Housing Strategy 2020-2023
- Maximising Space for homes in Adur - JSC, 6th October 2020, Item 8
- Delivering Pathways to Affordable Homes - JSC, 30th March 2021, Item 5

## **Sustainability & Risk Assessment**

### **1. Economic**

The proposal supports the use of Right to Buy receipts which, if unspent, the Council would have to return to government.

The proposal supports significant spend with a local contractor.

### **2. Social**

#### **2.1 Social Value**

The proposal supports delivery of affordable housing for people on the Housing Register who are currently in inappropriate accommodation.

#### **2.2 Equality Issues**

Issue considered, no impacts.

#### **2.3 Community Safety Issues (Section 17)**

The proposal supports regeneration of garage sites which historically see antisocial behaviour.

#### **2.4 Human Rights Issues**

Issue considered, no impacts.

### **3. Environmental**

Issue considered, no impacts

### **4. Governance**

Issue considered, no impacts