

Housing Estate Redevelopment at Sugar Hill Close & Wordsworth Drive, Oulton

Date: 20th October 2021

Report of: Director of City Development and Director of Communities,
Environment & Housing

Report to: Executive Board

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- This report provides details of how the Council is responding to issues arising from the proposed redevelopment of the privately owned housing estate at Sugar Hill Close and Wordsworth Drive, Oulton.
- Specifically it sets out how the Council can maximise the delivery of new, high quality affordable housing at the site, which could be made available to existing tenants of the estate, through the application of a local lettings policy. The report also sets out why it is not recommended to acquire, retain and refurbish the current housing. It further sets out the actions that can be put in place in the short term to support tenants during a time of significant uncertainty.
- The estate of 70 homes was originally constructed by the National Coal Board in the 1950's to provide accommodation for people working in the local coal mining industry and their families. As at September 2021 the Council understands that 48 of the 70 properties on the site are occupied.
- The dwellings on the site are of the 'Airey' typology, which is prefabricated consisting of a steel frame and concrete panels. The current owner of the site and landlord to the tenants, Pemberstone (Oulton) Properties Ltd, has held long-standing concerns about the condition and sustainability of the properties based on the known defects found in this building archetype and through its ongoing management of the estate. It commissioned surveys of the dwellings in April 2020, the report of which confirmed there were a range of substantive structural and condition concerns that are known to be common in this building type, and that these would be likely to deteriorate further. It is understood that a follow-up survey undertaken in May 2021 confirmed a further worsening of the issues, giving rise to the landlord's concerns about the health and safety of tenants.

- Pemberstone submitted a planning application in November 2017 for redevelopment of the site to demolish the existing houses and replace with 70no. new 2, 3 and 4 bed dwellings, comprising 49 market sale homes, 10 affordable homes in line with planning policy and 11 homes to which the same number of existing tenants with 'protected rights' would need to be rehoused. The Council, in its capacity as Local Planning Authority, refused the application in October 2019, giving significant weight to the impact of the proposed redevelopment upon the existing community. Following an appeal by Pemberstone an independent government Planning Inspector granted approval in January 2021, attaching significant weight to the applicant's evidence that the existing housing was in a state of substantial structural deterioration, beyond economic repair and likely to degrade further, thereby justifying the requirement for redevelopment over retention and refurbishment of the existing homes.
- Acting upon the information in its updated property surveys and within its statutory responsibilities as a landlord, Pemberstone started the process of 'no-fault' evictions in August 2021, serving four months' notice upon eight of the households that it has assessed as living in the properties most at risk of serious deterioration in condition. Pemberstone's actions are entirely legal and are pursuant to s21 of the Housing Act 1988, where upon the issuing of a notice to a tenant in accordance with the requirements of the Act and after the defined notice period, a court will make an order for possession of the dwelling house. There does not need to be a reason for the notice to be served under section 21 Housing Act 1988. The Council understands that two evictions are being separately progressed by the landlord through due legal process relating to breaches of tenancy and it is anticipated that further no-fault s21 notices may be issued in due course to the remaining 27 households that do not have protected tenancies, based on the condition and risk assessment of their homes.
- The Council will ensure that the tenants of Sugar Hill Close and Wordsworth Drive, who have been or will be issued with no-fault eviction notices, will be fully supported in obtaining alternative accommodation by Leeds Housing Options. This includes a bespoke offer to attend at the tenant's homes, if requested, to take homeless and housing applications. Where there is risk of homelessness, tenants will be assessed and assisted under the homelessness legislation. This could include an award of the appropriate priority for rehousing under the Council's allocation policy and they will also be supported in accessing options in the private rented sector. It is acknowledged that unfortunately it is unlikely to be possible to meet the housing needs of all the community within or close to the existing area due to availability of vacant dwellings in both the private and the social housing sector.
- Across our city everyone deserves to live in a good quality, safe home that meets their economic and social needs. Good quality homes in strong and safe communities with good social and inter-generational bonds are critical to delivering our aims for Inclusive Growth, improving and sustaining good public health and enabling successful and sustainable places.
- The Council is clear that no tenant of any landlord, no individual, no family and no community should have to live with the fear and uncertainty that has existed for the residents of Sugar Hill Close and Wordsworth Drive for several years. Throughout this time, tenants on the estate, their representatives and supporters have campaigned against the proposed redevelopment and asked that the Council step-in to acquire the site, using compulsory purchase procedures if necessary, to retain the existing homes and refurbish them to modern standards, thereby avoiding the need for their rehousing and break-up of the community.

- The Council's first concern has always been to see this community kept together and in the absence of having any ownership in the site has sought to engage with Pemberstone to explore the possibility of this and to obtain information about its activities and programme so that the Council can be as proactive as possible in understanding and mitigating their impacts.
- An independent Planning Inspector has agreed with the assessment of economic case against retaining and refurbishing the existing homes and Pemberstone has acted entirely within the law in securing planning permission and commencing no-fault evictions of tenants. Pemberstone is carrying out the timing of the evictions based on an assessment of health and safety risks arising from property conditions before serving notice. It has acted diligently as a landlord in surveying and monitoring condition of the properties and maintained a clear intent to secure and implement a scheme of development based on that independently assessed evidence.
- The acquisition of the site by the Council, retention of current dwellings and bringing into Housing Leeds stock on affordable rents, together with the very high costs of delivering refurbishment to high sustainability standards in line with other new-build and refurbishment works across the city, means that the Council cannot make an economic case for investment or retention.
- Legal advice is clear that the Council cannot make the necessary compelling case in the public interest to issue a Compulsory Purchase Order without there being a demonstrably viable scheme of retention and refurbishment if that were the intended purpose of the CPO, to meet very clear legal tests. Pemberstone is proactively taking forward actions that will enable its legally secured planning permission to be implemented, which would give it a very strong position from which to object to any Compulsory Purchase Order the Council might seek to promote, leaving it exposed to significant costs.
- The Council had previously introduced Pemberstone to locally active Registered Providers of affordable housing to identify how they may form part of a positive solution for tenants. It is now understood that a Leeds based Housing Association has expressed interest in acquiring the site with the intention of implementing the current planning permission. Details of this interest are set out in Exempt Appendix 2. This interest would be reliant on there being 'vacant possession' of the site upon acquisition so that funding could be secured from government to deliver a mixed tenure scheme of homes more balanced towards affordable options including affordable rent, shared ownership and market sale.
- Whilst this is very clearly not an opportunity to secure the tenants' preferred position of retain and refurbish existing homes, the Council has made contact with the Housing Association and agreed in principle to work together to maximise the affordable housing choices on the development. A local lettings policy would be framed in a way to give preference to those displaced tenants who had held the longest tenancies, taking into account their housing need and their housing requirements. It is hoped that this will enable some of the tenants rehoused from the site to have the opportunity to return to a high quality, suitable and affordable home subsequently developed there.

Recommendations

- a) To note and support the Council's offer of support from Housing Leeds to tenants of the Sugar Hill Close and Wordsworth Drive estate to support them in securing alternative housing where they may be at risk of homelessness following no-fault evictions.
- b) To support the Council's further engagement with the Housing Association identified in Exempt Appendix 2 with a view to maximising the affordable housing that could be delivered at Sugar Hill Close and Wordsworth Drive, through the application of pooled commuted sums or other resources as may be identified and agreed by the Directors in consultation with the Executive Member for Infrastructure & Climate and Executive Member for Resources.
- c) To note the options considered and support the potential for the Council to directly acquire homes in the completed development as outlined in para 47.3 and/or the use of commuted sums to secure the delivery of additional affordable housing alongside a local lettings policy for the benefit of tenants rehoused from the estate as outlined in paras 48.1 - 48.4.
- d) To request an update on progress in taking forward the preferred approach outlined above and a further report requiring any subsequent decisions on use of resources to support the detailed proposals to be brought to Executive Board in due course.

Why is the proposal being put forward?

1. The Council recognises the extreme uncertainty and fear that the residents of the housing estate at Sugar Hill Close and Wordsworth Drive, Oulton have faced over several years in the face of proposals for the development of the site by its private owner, Pemberstone, and the potential for no-fault evictions to be progressed to enable this. All the city's residents have the right to a good home that meets their needs and there is now a very real risk of homelessness for up to 37no. households on this estate as the landlord undertakes no-fault evictions from homes. The landlord does not need a reason for carrying out the evictions but is basing the timing of the notices on an assessment of the properties as being in poor and rapidly deteriorating condition, prior to undertaking a redevelopment of the site.
2. The actions now being undertaken by Pemberstone are entirely within its legal rights and responsibilities as a landlord and are done so with a view to implementing a planning permission legally obtained.
3. In this context the Council's ability to compel an alternative approach is very limited, though it has sought to influence the developer's actions and obtain positive outcomes for the tenants. As Local Planning Authority the Council considered and determined the developer's planning application, giving significant weight to the impact on the community, refusing planning permission and contesting the developer's appeal at Public Inquiry. As the Local Housing Authority the Council has a statutory duty to prevent homelessness and can put measures in place to support tenants at risk. In its capacity of supporting and enabling regeneration the Council can bring together funding and use its partnerships and influence to secure new build affordable housing; and as a developer of social and affordable housing the Council can consider the viability of directly delivering new homes.
4. The proposals in this report therefore set out the Council's position in addressing the issues arising from Pemberstone seeking to implement its legally secured position – how it has sought to engage with the landlord; the rehousing support it can offer to tenants facing no-fault eviction from their homes to prevent homelessness; and how, subject to the number, type and suitability of additional affordable homes secured on the site tenants may be provided with an opportunity for access to new, high quality affordable housing that meets their longer term housing needs

on the same site following its redevelopment.

What impact will this proposal have?

Wards affected: Rothwell

Have ward members been consulted?

Yes

No

5. Ward Members have been involved in ongoing discussions with the tenants of the estate and the Council.
6. The Council is seeking to ensure that tenants affected by the no-fault eviction action undertaken by the private landlord have full support in the short term from Housing Leeds so that they can be supported through the homelessness legislation, and that the Council works with partners to create an opportunity to give preference to occupation of the new affordable homes to those who have been displaced. Both of these matters are addressed below.

Short-term Support for Tenants Under Threat of No-fault Evictions and Homelessness

7. There is immediate and reactive support that the Council is putting forward to the tenants of the estate to ensure their housing needs arising from no-fault eviction can be met and they do not become homeless. This will be done under the provisions of the homelessness legislation.
8. As at September 2021 the Council understands there were 48no. homes occupied on the site, all under tenancies to the private owner and landlord, Pemberstone. Of these 37no. households are on Assured Shorthold Tenancies (AST), which is the most common type of agreement used by landlords to let residential properties to private tenants. AST's are typically given for a period of six months but can be for longer. After this initial agreed period, the landlord is able to evict the tenant without a legal reason under s21 of the Housing Act (a 'no-fault' eviction). Landlords can also issue eviction notices for breaches of tenancy conditions and it is understood by the Council that such action is being taken against two tenants on this estate based on non-payment of rent over a long period.
9. Pemberstone issued s21 Eviction Notices to eight households on AST's in August 2021. Although no legal reason need be given for such no-fault evictions, it is understood that these properties had been assessed as being in the worst and declining structural condition and therefore posing a risk to tenants' health and safety. It is generally the case that there are no suitable legal grounds for a tenant to successfully appeal such notices.
10. 11no. of the households are under Regulated and Assured tenancies, which both offer the tenant statutory protection of the tenancy for life (the protected tenancies). In effect this means that in any redevelopment of the site those households must be re-housed on the same terms within the new build accommodation constructed. The Council understands that eviction notices will not be issued to these households and that their homes will be temporarily stabilised and made safe by the landlord pending rehousing into the first of the homes to be newly built on the estate.
11. It is further understood that the remaining 27no. households under AST's have been contacted by the landlord to advise it intends to carry out further inspections of property condition and that any other structural issues could result in further no-fault evictions to secure vacant possession of the site by the end of February 2022. Based on a four-month notice period this may mean the serving of 27no. notices by the end of October 2021.

12. Pemberstone has made a time-limited *ex gratia* offer of financial support to all tenants to assist in their obtaining alternative accommodation, which is understood to be equivalent in value to 6 months' rent payments in each case.
13. Notwithstanding this financial assistance offered by the landlord where a tenant of the estate is served with a Section 21 notice the following offer will be provided by Leeds Housing Options:
 - 13.1. Firstly where a tenant makes an application to the Council for assistance Housing Leeds will carry out a full assessment of their circumstances. If required, this can be done in person at the applicant's home;
 - 13.2. Should this identify pending homelessness it is likely a Band A or Band B award will be made giving priority preference on the LCC Housing Register to assist with bidding on Council accommodation. Housing Officers will discuss options available to the applicants, explain the challenges around the supply and demand of council housing and provide advice and assistance in terms of securing an alternative private rented property as close to the current location as possible.
14. While every case will be treated individually, the following will be provided for every assessment:
 - 14.1. An individual personal housing plan which will set out what steps the local authority and the applicant can take to prevent their homelessness;
 - 14.2. An offer to join the Leeds Homes Register (if not already done) which is the Council's allocations system for social housing, including advice on the availability and waiting times for social housing;
 - 14.3. Comprehensive advice and assistance on the range of options available in the social, private and, if appropriate, supported housing sectors in Leeds;
 - 14.4. An allocated caseworker who will work with them until a resolution is identified.
15. The Council has substantial experience in managing the rehousing process and meeting the needs of residents. Each year across the city over 6,000 households are assessed as being at risk of homelessness or actually homeless and are assisted in some capacity by Housing Leeds.

Longer-term Opportunity for the Community

16. Whilst the initial priority must be to mitigate the threat of homelessness for individual tenants of the estate and to ensure their immediate housing needs can be met, it is acknowledged that due to the limited availability of housing stock it will not be possible to relocate the community together and that rehousing opportunities will need to be drawn from both the private and social sector across the whole city, where possible taking location needs in relation to school and workplaces into account. There is therefore a risk that there will be a loss of the important social support networks and family bonds that have in some cases been in place for decades at Sugar Hill Close and Wordsworth Drive.
17. The Council has listened to the tenants who have campaigned for it to take ownership of the site and retain them in their existing refurbished homes and it is clear they would be comfortable becoming Housing Leeds tenants, paying affordable rents. Unfortunately, as set out in the Options section of this report it is not possible to make an economic case for the acquisition and refurbishment approach and the Council has therefore sought to work with Pemberstone to identify how as an alternative approach it might secure additional affordable housing through redevelopment of the site over what is currently provided for in the planning approval. This

would be through the Council's acquisition of some additional properties on the site, application of diverse funding streams such as receipts from the sale of Right to Buy properties elsewhere in the district, use of pooled commuted sums received *in lieu* of on-site affordable housing on other development schemes and/or applications to Homes England for Affordable Housing grant.

18. In principle Pemberstone has been willing to consider this approach but the number of such acquisitions that could be made available would be subject more detailed discussion.
19. The Council has also introduced Pemberstone to a number of local Registered Providers of Affordable Housing to establish the scope for any of these Housing Associations to form part of a solution that could meet the needs of tenants both individually and as a whole community.
20. Due to uncertainties relating to the planning status of the site, the landlord's intentions regarding evictions and the need for Housing Associations to have certainty of funding this has not given rise to any interest until very recently. It is now the case that a Leeds-based Housing Association has been able to access recently announced Homes England grant funding for 'new supply' affordable homes and has undertaken some due diligence on the site for its acquisition and implementation of the existing planning permission. Details of this interest are set out in the Exempt Appendix. In initial discussions with this Housing Association it is clear that like the Council it is unable to make a viability and funding case for retention and refurbishment of the existing homes and if it is to pursue an interest in the site further it would be on the basis of acquisition with vacant possession, for redevelopment.
21. However, this interest does now create a positive opportunity to bring forward an approach to the tenure mix in the development of the site that seeks to maximise the affordable housing that will be available. Based on initial discussions with the Housing Association, there is scope to increase the affordable housing delivered in its scheme from a target of 30 homes up to 40 affordable homes, using additional local funding such as commuted sums. It has also been agreed in principle that a local lettings policy could be put in place on the newly built homes, whereby existing tenants of the estate that are rehoused elsewhere to meet their immediate housing needs arising from no-fault eviction, could be offered the opportunity to move back to the estate as phases of development are completed, subject to an assessment of their needs. In any scenario the 11 households on protected tenancies would still need to be provided for on the new estate, and it would remain the intention to temporarily stabilise these 11 homes until new properties are completed on the redevelopment and available for occupation.
22. It is recognised that this approach would not deliver on the requests set out by tenants to stay in their existing homes and would involve a period of disruption through two housing moves, firstly as an assisted response to the no-fault evictions and then in due course, upon availability of the new homes, a move back to the estate, which could be achieved in a phased way during the estimated 30 - 36 month programme for development of the site. It is though a way of securing opportunity for displaced tenants to bid through a local lettings policy for advertised homes, which would give preference to the longest established tenants of the current estate, taking into account their housing need. This would offer affordable and secure housing of a higher quality than could be achieved through refurbishment and offers scope for a clear plan and programme that it is hoped the Council, Housing Association and tenants can work on closely together.

What consultation and engagement has taken place?

23. Through its planning application for the development of the site Pemberstone undertook a range of engagement and consultation activities, detailed in a Statement of Community Involvement and the Local Planning Authority undertook statutory consultation on the proposals.
24. Following the submission of the development proposals the Council has engaged with tenants throughout and subsequent to the determination of the application by the Local Planning Authority and following the outcome of the appeal. The Leader, Executive Members and senior officers have listened to the concerns and requests raised and sought to provide open and clear responses to these.

What are the resource implications?

25. The current funding programmes that are available nationally for affordable housing through Homes England have specific eligibility requirements. These do not provide grant for refurbishment or for the demolition and replacement of homes through regeneration work, though grant may be available to support the delivery of net additional affordable homes on those schemes. Similarly the purchase of homes built under section 106 agreements, where the affordable homes are secured through developer contributions, is not funded by grants.
26. These constraints apply to both Local Authorities and Housing Associations. Additionally the Council must demonstrate delivery of new, not replacement or refurbished, stock in applying the use of its pooled Right to Buy receipts. Where funding is being sought for redevelopment of existing housing sites, clearance of all existing properties would be required before approval could be confirmed.
27. The Council does have more flexibility in the use of pooled commuted sums, which the Local Planning Authority collects from developments across the district where it has been agreed that the affordable housing will not be delivered on site and a payment is made to support other off-site delivery. These funds cannot be used for refurbishments but can be applied to schemes where they would secure new or increased delivery of affordable housing.
28. The Mayoral Combined Authority currently manages a major funding programme for West Yorkshire to support the unlocking and acceleration of housing development on brownfield sites. The Brownfield Housing Fund has been agreed with national government and as with Homes England funding programmes it is specifically targeted at new supply housing, not refurbishment and is run on clear value for money criteria and scaled delivery, including consideration of the per dwelling costs of investment, that would discount its application to any form of solution on the Sugar Hill Close and Wordsworth Drive estate.

What are the legal implications?

29. The Council has a role in taking action under the Housing Act 2004 and De-regulation Act 2015 when properties let in the private rented sector are not properly maintained and kept safe by the landlord. This can involve serving statutory notices requiring work to be undertaken to properties or notices prohibiting occupation if they are extremely unsafe. The Landlord cannot serve a section 21 Notice for the period of 6 months after a relevant Housing Act 2004 notice is served but this would only delay its serving and does not permanently prevent notices being served or possession ultimately being applied for by the landlord. To bring such a course of action to effect, tenants will need to have written to the landlord to notify of the disrepair as well given the landlord a chance to remedy the disrepair.

30. When taking action under the Housing Act 2004 the Council must consider if it is justified under the guidance and legislation as notices can be challenged by way of appeal to the First Tier Property Tribunal. The Council's own enforcement policy states that when inspecting properties, the Council will usually liaise with landlords prior to taking formal enforcement action/serving notices and will give them a chance to carry out any works that are required. Serving notices as the first stage is only done in certain limited circumstances set out in the policy such as history of previous lack of engagement or of offending.
31. The Council has engaged with Pemberstone in this case and it is clear there are legitimate and defensible reasons for why repairs have not been undertaken and this was fully set out at Planning Inquiry. It is also understood that the landlord intends to carry out some interim structural works to make properties safe where the occupier is a protected tenant until the new housing is available.
32. Whilst the Council has statutory powers to compulsorily acquire land under s226 of the Town and Country Planning Act or s17 of the Housing Act 1985, in exercising these powers a compelling and defensible case to interfere with a third party's land by way of statutory means must be fully justified to meet the objective in the legal tests. Accordingly a CPO must always be a measure of last resort. Detailed analysis of this development site and the consent granted at Appeal demonstrate that the Council cannot successfully utilise its compulsory purchase powers on this site given Pemberstone's clear intentions to implement their planning permission and thereby meet the objectives of any CPO the council would seek to promote. The Council would be at risk of committing significant time and financial resource to this exercise with very limited likelihood of success and with the potential to being exposed to paying the legal costs and professional fees of the landowner should the CPO fail, this could amount to over £500,000 in total costs.
33. Appendix 2 of this report has been identified as exempt from publication under Access to Information Procedure Rule 10.4(3) because it contains information which relates to the identity and business affairs of a third party to the Council that does not wish to be publicly identified at this stage, but which is relevant to the understanding of the Board. Releasing the identity of this third party may prejudice their commercial interests and withholding the information is considered to outweigh the public interest benefit or its release. There is a risk that if the details of the Housing Association are made public at this stage, they may withdraw their interest.
34. In accordance with Executive and Decision Making Procedure Rule 2.3.2, where it is proposed that part of a report is to be exempted from publication and discussed in private at an Executive Board meeting, notice of the intention to hold a meeting or part of a meeting in private is to be published at least 28 clear calendar days prior to that meeting. Where the date of the meeting makes compliance with rule 2.3.2 impracticable, rule 2.3.4 provides that the meeting can only consider exempt or confidential items in private with the agreement of the Chair of the relevant Scrutiny Board, who must be satisfied that the meeting is urgent and cannot reasonably be deferred.
35. At its meeting on 14th September Full Council debated the situation at Sugar Hill Close and Wordsworth Drive, Oulton, and resolved to bring forward an Executive Board report to set out the Council's response to the situation. Following discussions with the Leader and Executive Member for Infrastructure & Climate and based on availability of relevant information and timing of the report to Executive Board, it was agreed to bring this to the 20th October meeting, though this was after the deadline for publication of the relevant 28 days' notice of exempt matters to be discussed. This matter is urgent and cannot reasonable be deferred as tenants on the estate have already been served with eviction notices that will expire in the first week of December

and there is strong public interest in the Council providing clarity on how it proposes to mitigate the situation, as early as possible. The relevant Scrutiny Board Chair has provided his agreement with such reasons.

What are the key risks and how are they being managed?

36. The tenants of the estate are bearing the primary risk of homelessness associated with the no-fault evictions now underway by the landlord. The Council has set out how it can provide an individual support package under the relevant housing legislation to help secure rehousing.
37. There is a further risk related to the completion of arrangements between Pemberstone and the Housing Association, to which the Council is not party.

Does this proposal support the council's three Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

38. The actions proposed in this report are predicated on the Council recognising the need to actively support a vulnerable community and to ensure its members have both their immediate housing needs met and beyond this have the opportunity to access new homes in the estate on the same site once it is developed.
39. The links between housing conditions, disruption and uncertainty, physical and mental health and general well-being for individuals and families of all backgrounds and circumstances are well understood. The Council is seeking to shape an outcome that helps manage or relieve the stress and uncertainty of the current situation for tenants of this estate from the actions of a landlord that is operating within its legal remit.
40. Demolition and replacement of any building must come with strong consideration of the environmental impacts of 'embedded carbon' associated with the original structure and materials. In this case the Council has no direct control over whether Pemberstone implements its planning approval but has given consideration to the 'whole life' value and environmental performance that could be achieved from acquiring, retaining and refurbishing this previously unimproved housing, against the performance that could be achieved from development of new stock with new materials and specification to modern standards. This consideration has already taken place as part of the planning balance for the scheme that was approved by the independent inspector at public enquiry and the Council's conclusions as to the refurbishment option are clearly set out in this report and are not recommended.

Options, timescales and measuring success

What other options were considered?

41. In the context of Pemberstone's intentions to take forward its legally secured development proposals for the estate and to obtain vacant possession of the majority of the homes to enable this, the Council has very limited direct control or power of compulsion to secure an alternative approach. The options considered by the Council centre on how it can use its roles, powers, influence and resources to shape an outcome that delivers as much affordable housing on the estate as possible for existing tenants, and which can provide a long term (60 years plus) design life with high levels of energy efficiency and environmental performance consistent with current planning policies and building standards.
42. A number of options have therefore been considered based on their ability to secure the outcomes outlined above:
 - No action – Pemberstone builds out its planning approval, 11 protected tenants are rehoused in new dwellings constructed and 10 affordable homes secured through the

planning permission are let to people on the Leeds Homes register under nominations rights given by a Housing Association taking ownership

- Pemberstone builds out its planning approval, 11 protected tenants are rehoused in new dwellings constructed and 10 affordable homes secured through the planning permission are made available to tenants rehoused from the estate, under a local lettings policy
- Council acquires and refurbishes the whole estate and lets properties to existing tenant occupiers at social/affordable rent
- Council acquires and redevelops the whole estate and makes properties available to previous tenants rehoused from the estate, at social/affordable rent under a local lettings policy
- Council works with an alternative provider to redevelop the estate and secure a high level of affordable homes, making some properties available to previous tenants rehoused from the estate, at social/affordable rent under a local lettings policy

43. An assessment of each of these is set out below.

44. *No action - Pemberstone builds out its planning approval*

- 44.1. This is effectively the 'do nothing' option. Pemberstone is in a position to legally secure vacant possession of the estate, save for the 11 protected tenancies, and to implement its planning approval. Under the terms of a s106 legal agreement attached to the planning approval Pemberstone would be required to sell 10 of the newly built homes to a Housing Association at defined discounted values, for management and letting as affordable housing. The Council would have nomination rights to these homes and in standard practice these would be made available to people in priority need on the Leeds Homes register. The 11 protected tenants would also be moved to newly built homes on the estate.
- 44.2. This approach is not recommended, as it would not offer any guarantees that existing tenants of the estate would be able to access any of the 10 the new affordable homes and would not ensure the Council is making full use of its influence and resources to secure best outcomes for those worst impacted by the landlord's actions.

45. *Pemberstone builds out its planning approval and a local lettings policy is applied to the affordable housing*

- 45.1. This approach would involve establishing a local lettings policy that would enable existing tenants of the site who are being rehoused elsewhere, to have an opportunity to return to the estate as a Council-nominated tenant for the new affordable homes constructed under the planning permission.
- 45.2. This approach is not recommended as it would be a minimal level of Council intervention and would only secure an opportunity to return to the estate for 10 of the up to 37 existing households who will be required to move away in the short term.

46. *Council acquisition and refurbishment of the estate*

- 46.1. The Council has looked carefully and seriously at the tenants' request for it to acquire the estate and refurbish the homes so that they can remain living on the estate.
- 46.2. As owner of the site Pemberstone commissioned a specialist structural and building survey to assess and confirm the condition of the properties on the site. An initial sample survey in 2018 was followed up with a whole estate survey in April 2020, with a

further inspection and report in May 2021. A report with the 2020 survey evidence and its interpretation was presented and examined at the Public Inquiry and held to be sound by the Inspector, supporting the case made that the dwellings could not be economically refurbished. The follow up report of 2021 has not been shared with the Council, though Pemberstone states that it confirms the findings and predicted deterioration of the properties as set out in the first, available, report.

- 46.3. The Council has commissioned a separate independent specialist consultant to undertake a desktop peer review of the 2020 report, to further check and challenge the methodology and findings. Whilst the Council's consultant has not been party to the detailed survey itself, its opinion of the report presented is that the surveys were undertaken by a specialist with relevant experience in the field, an appropriate amount of investigation has been carried out in producing and presenting the findings and the correct technical research and guidance was followed during the investigations and reporting. This desk-top review concurs with the findings in terms of the principles of intervention and that the assessment of the timeframe in which the structural risks should be managed is not inappropriate.
- 46.4. The Council has in the past retained and refurbished Airey properties and has 1,415 of this typology within its stock, none of which are unimproved. The vast majority of these HRA properties were refurbished over a 20-year period from the mid-1980s to the mid-2000s, some by the Council and some by the six ALMOs that were in place towards the end of that period. The only available retained records of such works relate to a single Airey house that had structural remedial work completed in 2013 by West North West Homes Ltd (ALMO) at a cost of £72,000, which is the equivalent of £84,500 in 2020 (as per the Bank of England inflation calculator).
- 46.5. Based on the information provided through the Pemberstone-commissioned surveys it is clear that the properties at Sugar Hill Close and Wordsworth Drive will have degraded to a much greater extent than those last refurbished by the Council and will have much more fundamental works required to address a longer period of deterioration, in addition to new enhanced specification that would need to be applied.
- 46.6. The current indicative cost to improve an Airey home is £150,000 per property. This comprises £85,000 for structural remedial works, £32,000 to carry out works to achieve internal Council housing standards and £8,000 for decant and transit costs. These estimates have a prudent 20% risk/contingency applied.
- 46.7. The Council has also commissioned independent valuation advice to inform consideration of this option so that a realistic cost of site acquisition can be included within the appraisal. This advises a valuation for the site of £2.75m, which is based on local land and property market evidence and takes into account the benefit to the landowner of the planning permission now in place. It would therefore be prudent to consider this as a minimum value at which the landowner may be willing to sell.
- 46.8. As such the overall cost to the Council of this approach, combining the estimated acquisition and refurbishment costs is at least £13.25m, which is equivalent to £189,000 per dwelling. All such costs would need to be met from internal Housing Revenue Account budgets, which would impact on the funds available to deliver estate and housing improvements for existing Council tenants elsewhere in the city.
- 46.9. The Council's view is that Airey property types that have been unimproved up to the current time are past their economic life and there is an unsupportable high cost of refurbishment to modern, future-proofed and sustainable standards of energy efficiency that would be consistent with the performance standards, budget and management demands on Housing Leeds investment and maintenance programmes. As a

consequence of the structural survey information available, the cost and technical challenges associated with refurbishment and the poor design-life that would be achieved, this option cannot be recommended.

- 46.10. It has been suggested by tenants and their supporters that the Council should use its powers of compulsory purchase to acquire the site. Legal advice is clear that the Council cannot make the necessary compelling case in the public interest to issue a Compulsory Purchase Order without there being a demonstrably viable scheme of retention and refurbishment if that were the intended purpose of the CPO, to meet the very clear legal tests in both the Town and Country Planning Act and Housing Act. It also remains the case that Pemberstone has secured a planning approval where an Inspector appointed by the Secretary of State approved the planning permission as being sustainable development alongside an accepted economic case for redevelopment. Pemberstone is proactively taking forward actions that will enable this planning permission to be implemented, which would give it a very strong position from which to object to any Compulsory Purchase Order the Council might seek to promote. It is therefore assessed that there is not a compelling case for compulsory acquisition and pursuing such proceedings is highly likely to lead to a refusal at a Public Inquiry.
- 46.11. Compulsory purchase proceedings can take a minimum of 18 months to bring to Inquiry. There is often a lengthy period beyond this during which a decision is awaited. During such time it is easily conceivable that Pemberstone could have completed the no-fault eviction of tenants and substantively if not fully implemented its planning permission. The use of Compulsory Purchase powers cannot be recommended for these reasons.

47. Council acquires and redevelops the whole estate

- 47.1. This approach assumes the Council would acquire the site and build out the permitted planning consent, but wholly for affordable rent, with a local lettings policy implemented to enable tenants previously rehoused from the estate to move back as tenants of the Council. The Council does not have detailed technical information about the site or ground conditions, which on brownfield sites can have a significant impact on development costs. A range of prudent assumptions about site risks have therefore been applied in developing an estimate for the cost of acquisition and redevelopment of £20-25 million, equating to a cost of £286,000 to £357,000 per dwelling.
- 47.2. Whilst these costs are similar to those agreed for a recent council housing new build scheme elsewhere in the city, the scheme here is not viable within the parameters agreed by Executive Board in July 2019, as the costs of acquisition and development would require rents to be charged above the level of 70% of local market rates.
- 47.3. A further scenario has been modelled, based on only acquiring additional 2 or 3 bedroom homes from the developer of the site at open market value and providing them as additional affordable rented homes, with rents charged at up to 70% of market value. This could help to increase the total number of affordable homes available on site from the 21no. that are required to provide for the protected tenancies and s106 planning policy, to 40no. in total. The 4 bed homes would not however be viable using the current viability measures. This second scenario is considered a reasonable contingency to pursue should Pemberstone proceed with the development scheme but would be subject to negotiations to purchase.

47.4. In summary this option has a high cost, places the risk of redevelopment with the Council and the cost intervention rate is far in excess of other options set out in this report and therefore is not recommended.

48. Work with an alternative provider to redevelop the estate and secure a high level of affordable homes

48.1. The final and preferred approach is that which is set out in relation to the interest of the Housing Association in developing the site, so that the Council secures additional affordable provision on site through the application of pooled commuted sums from s106 obligations on other residential development schemes across the city. In so doing it would assist in drawing in significant external funding for affordable housing delivery.

48.2. The additional costs involved in this approach would entail commuted sums contributions to a Housing Association scheme to offset the difference in cost for each additional dwelling brought forward as an affordable rented home and not delivered as a market sale or shared ownership home. It is estimated that this could be achieved for a contribution of £50-60,000 per dwelling, which would be additional to any grant or other funding secured by the Housing Association.

48.3. Through this approach and with the introduction of a Local Lettings Policy, affordable homes for rent could be advertised giving preference to existing tenants displaced due to demolition. As it is possible there will not be an equal number of homes advertised for rent against the total number of current tenancies lost, the local lettings policy would be framed in a way to give preference to those displaced tenants who had held the longest tenancies, taking into account their housing need and their housing requirements.

48.4. On balance across the options assessed, based on the leverage available to the Council, the range of comparative costs and availability of funds, and the potential to engage with a Housing Association in the development of the site, this option is preferred on the basis that it could secure:

- Up to 40 new affordable homes available to the existing tenants via a local lettings policy
- Homes which are built to modern energy performance standards consistent with current planning and building standards
- Homes which will have a 60 year + design life and lower whole-life maintenance costs.

How will success be measured?

49. It must be borne in mind that success in relation to the proposals set out in this report relates to the management and mitigation of very real human impacts on the tenants of the Sugar Hill Close and Wordsworth Drive estate. For those tenants no-fault eviction from their homes and the prospect of a lengthy period of living in a new home, a new neighbourhood or a new part of the city before having an opportunity to bid on newly developed advertised homes and re-establish their community connections will feel very little like success. Although the issues in this report relate to properties, costs and viability, the real and important matters are the lives of this community, households and families who deserve safe, affordable and good quality homes and a future they can be certain of.

50. This is a situation not of the Council's making and over which it has limited direct control, influence or scope for legal interventions. The fundamental technical and cost challenges of acquiring and refurbishing all of the existing homes cannot be justified in viability terms and there is no case that can be made to compel sale of the site to the Council. The support measures put forward in this report offer the tenants parity of treatment with those of the Council and priority status to prevent homelessness. The intervention of a Housing Association partner and delivery of a scheme that can be supplemented with funds held by the Council to deliver affordable housing that can be made available to existing tenants of the site is the best potential outcome in a very challenging situation. Success will therefore ultimately be measured against the achievement of the preferred outcome outlined in this report, through the delivery of new affordable housing that could be bid for by tenants to make a return to the estate, following their rehousing as a result of the no-fault evictions undertaken by the landlord.

What is the timetable for implementation?

51. The short-term support measures identified in this report are available and being implemented immediately.

52. The longer-term measures to secure opportunities for tenants to return to the site in new affordable homes will be dependent upon the arrangements for site acquisition being concluded between Pemberstone and the Housing Association and the completion of the no-fault evictions and rehousing. It is currently anticipated, based on the landlords stated intentions, that vacant possession of the site may be achieved by February or March 2022, allowing for 30 months of development and phased availability of new homes within that period.

53. Should the Housing Association not be in a position to proceed with the scheme, the Council would look to revert to its second preferred option of acquiring dwellings at market value from Pemberstone, off-plan if possible, and bring these into Housing Leeds stock and made available to former tenants under a local lettings policy. This would be subject to assessments of housing need under the Council's allocations policy.

Appendices

54. Appendix 1 – EDCI Assessment

55. Exempt Appendix 2 – Housing Association Interest - Exempt from publication under the provisions of Access to Information Procedure Rule 10.4(3)

Background papers

56. Technical Peer Review of Structural Survey Report