

## **Cabinet – 11 September 2024**

### **Approval of Registration with the Regulator of Social Housing to enable provision of additional Homeless Temporary Accommodation**

**Portfolio:** Councillor Garcha – Resident Access and Housing Support

**Related portfolios:** Councillor Andrew – Associate Leader, Economic Growth and Regeneration  
Councillor Elson – Children’s Services

**Service:** Customer Engagement

**Wards:** All

**Key decision:** Yes

**Forward plan:** Yes

#### **1. Aim**

1.1 To ensure that the Council meets its statutory obligations to provide homeless households in priority need with temporary accommodation (TA) where required.

#### **2. Summary**

2.1 The Housing Act 1996 requires housing authorities to ensure that accommodation is available for a homeless household, if they have reason to believe that the applicant may be homeless, eligible for assistance and have a priority need.

2.2 Walsall retained 92 units of market rent Homeless TA (which didn’t require registration with the Regulator of Social Housing) at stock transfer in 2003. Since 2022 there has been a constant increase in the number of homeless households requiring TA, exceeding available units, and having to be placed in bed and breakfast accommodation, which is an unsuitable and expensive option to meet this need.

2.3 As part of the Cabinet approved Homelessness Strategy 2023 to 2028, the Council commissioned an independent review in 2023 which recommended that between 32 to 52 additional TA units are required. It also concluded that the preferred approach, to ensure reduced revenue costs, would be to acquire and refurbish additional homes.

2.4 The Council has been successful in attracting £2.2m Local Authority Housing Fund (LAHF) capital which it is using to fund the purchase of some of this TA. It is being match funded by Affordable Housing Section 106 (planning) contributions. Both funding streams require that an Affordable Rent (80% of market rent) is charged.

2.5 In order to charge an Affordable Rent for these TA units the Council needs to become a Registered Provider (RP) with the Regulator of Social Housing.

- 2.6 Registration is automatic for local authorities. Being an RP brings conditions in that it must:
- have certain TA policies in place (ASB, complaints, tenancy management)
  - publish Tenant Satisfaction Measures:
  - meet Decent Homes standards
  - provide an annual return to the Regulator.

### 3. Recommendations

That Cabinet approves registration with the Regulator of Social Housing to become a Registered Provider.

### 4. Report detail – know

#### *Context*

- 4.1 Local housing authorities in England have a duty to secure accommodation for homeless households in priority need under Part 7 of the Housing Act 1996. Households can either be placed in temporary accommodation pending the completion of inquiries into an application, or after an application is accepted until suitable secure accommodation becomes available. This accommodation is typically referred to as TA. At stock transfer in 2003, Walsall retained 92 units of TA housing in 5 blocks in 3 locations around the borough. These units are charged at a market rent and did not require registration with the Regulator of Social Housing as a Registered Provider. In 2018/19 an additional 2 dispersed units were acquired following the granting of Compulsory Purchase Orders (CPO) due to being long term empty. Following this successful pilot, Cabinet in December 2021 approved the purchase and refurbishment of additional dispersed TA units using Affordable Housing Section 106 contributions.
- 4.2 Homelessness pressures have increased in Walsall in 23/24:
- the homeless service received a total of 2155 applications/inquiries, compared to 2036 in 22/23, showing a 6% increase;
  - from the total of 2155, 1334 applications, (62%) were advice or early closures, this compares to 1293 cases (64%) in 2022/23;
  - 36% of current housing requests progress to homeless duty, and it is expected that as unaffordability continues to increase, this will impact on the Council's homelessness case volume.
  - service data shows the largest reason for application as being the loss of an assured shorthold tenancy at 279 households, compared with 232 households in 22/23;
  - from January 2023 to 2024 we have assisted over 450 households with Household Support Fund (HSF) to prevent homelessness. From April 2024 to June 2024 we have awarded 232 customers and a total of 252 awards, demonstrating significant demand from customers.
- 4.3 When considering future trends, it is anticipated that homelessness will continue to increase due to:
- the increase in private rent levels;
  - shortage of social housing (especially larger properties) and a demand for adapted homes;

- low Local Housing Allowance (LHA) rates (even though they have been increased from April 2024);
- the reduction in Discretionary Housing Payment (DHP) funding from DWP;
- the short term funding nature of the Household Support Fund.

4.4 From April 2024 LHA rates have returned to 30<sup>th</sup> percentile of local rents (set as at September 2023), bridging some of the gaps between rent rises and benefit rates and potentially could mitigate some of the £27,000 current weekly shortfall in Housing Benefit and private rents in Walsall. The Office for National Statistics 2022/23 suggested that in Walsall the average rent for a 3-bedroom house is £795 per month, however locally advertised properties (Zoopla) are significantly higher, ranging between £900 and £1200 pcm. From April 2024 the LHA rate for a 3 bed is only £747 per month, which leaves a significant shortfall for many residents. As noted above, typical advertised 3 bed rents will still be higher than this figure, leaving a shortfall for prospective tenants. Also, the delay over the last few years in unfreezing LHA rates has seen a rise in rent arrears, with many residents approaching the Council with cumulative arrears issues, which has increased the costs associated with preventing homelessness when residents eventually approach for assistance. All of these factors have contributed to an increase in the number of households presenting as homeless and in priority need and requiring TA.

4.5 The Homelessness Act 2002 requires that all local authorities review and publish a revised Homelessness Strategy every five years. The current Strategy was approved by this Cabinet in March 2023 and runs to 2028. It contains a detailed Action Plan. One of the key actions of the Strategy was to carry out a comprehensive TA Options Appraisal and analysis to address the trends highlighted in paras 4.2 to 4.4. An external TA Options Appraisal was commissioned in March 2023, with final report provided in August 2023. The report concluded that between 32 and 52 additional TA units were required to meet need. The report considered the most appropriate and cost effective solutions to deliver this increase as per Table 1 below, in essence concluding that B&B and Private Sector Leasing were revenue costly to the Council, compared with an acquisition and refurbishment policy.

**Table 1: TA Options Appraisal August 2023 - Decision making matrix**

<b>Matter relevant for the decision</b>	<b>Council owned General Fund units in existing blocks</b>	<b>B&amp;B</b>	<b>Nightly Let</b>	<b>Hostels</b>	<b>Private Leased</b>	<b>Dispersed properties purchased by Walsall Council</b>
Cost to Walsall Council	Low cost (no Housing Benefit Subsidy loss)	High cost (significant Housing Benefit Subsidy loss)	High cost	Low cost But capital cost to purchase and convert	Medium cost (some Housing Benefit Subsidy loss)	Low revenue cost (no HB Subsidy loss) but high capital cost

Suitability: In area? Y/N	Y	Likely to be a mix or in and out of area	Likely to be a mix of in and out of area	Y	Y	Y
Suitability Good quality TA? Y/N	Y	N - 1 room and shared facilities.  Unlawful for families over 6 weeks	Mixed – nightly let could be 1 room or a self - contained unit	Mixed - 1 room and shared facilities are negative points, but support is provided	Y	Y
Can be used flexibly Y/N	Y	Y	N – landlord is likely to insist that unit used as per its size	Y	Y	Y
Can it be delivered quickly Y/N	Y	Y	Y	N – site would need to be found and planning permission possibly needed plus time to convert	Y	N – properties would need to be purchased and made fit to let which is likely to have a significant lead in time
Any additional capital costs to the Council	Y - cyclical repairs as well as day to day repairs	N	N	Y – capital cost to purchase and convert for use as TA	N	Y – capital costs to purchase units

4.6 The results of the TA Options Appraisal were used to formulate a business case which resulted in this Cabinet approving a £6.4m investment for a programme to purchase and refurbish a minimum of 32 additional TA units during 2024 to 2027. At the same time the Council has been successful in attracting £2.2m Local Authority Housing Fund (LAHF) which is being used to acquire (or use redundant Council assets) and refurbish additional TA properties, match funded by Affordable Housing S106 contributions as described in para 4.1. The LAHF grant funding and S106 contributions have been used first to purchase and refurbish additional TA, thus reducing the potential call on Council capital. The conditions associated with the LAHF capital mean that the majority of the units must be ringfenced to help

Afghan households (under Afghan Relocation Assistance Programme and Afghan Citizens Resettlement Scheme) matched to by the Home Office. However when the Council has assisted these Afghan households to move on to secure tenancies, we are then able to retain the TA units for general needs use, thus contributing to increased TA stock at a later date. The other requirement of both the LAHF and S106 capital funding is that the units must be affordable. There are two main affordable alternatives, being Social Rent or Affordable Rent. Due to the transient use of these properties and associated costs, the lower rent levels achieved with Social Rent are not a viable option to be able to maintain the units and provide the service. Therefore, Affordable Rents (80% of a market rent inclusive of service charges) are being charged. Affordable Rents must be calculated and provided by a RICS surveyor in accordance with the Rent Standard. In order to charge an Affordable Rent, the provider must be registered with the Regulator of Social Housing as a Registered Provider (RP). Registration for Local Authorities is automatic, but brings certain requirements.

- 4.7 The requirements applicable to an RP in summary will be met by providing a robust TA Policy, meeting Decent Homes requirements, publishing Tenant Satisfaction Measures performance, and ensuring Affordable Rents are calculated and charged appropriately. In more detail the requirements are set out in the **Regulatory Standards**: [Regulatory standards - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/standards/regulated-social-housing) This contains two sets of standards being Economic and Consumer:

**Economic Standards:** The Regulator proactively seeks assurance from RPs that they are meeting the economic standards. These apply to all RPs except for local authorities because the Regulator does not have the power to set economic standards for local authorities (except rents). So a local authority RP is only required to meet the Rent Standard.

**Consumer Standards:** The Regulator also sets consumer standards and takes a reactive approach (for RPs with less than 1,000 units) in response to referrals or other information received and to intervene where failure to meet the standards has caused, or could have caused, serious harm to tenants. These consumer standards apply to all RPs, including local authorities:

The 4 consumer standards are:

- **Safety and Quality Standard** – maintain an accurate record of individual property condition, comply with health and safety, meet decent homes standard, ensure delivery of repairs and maintenance in an effective, timely and efficient manner, and allocate homes to specific needs
- **Tenancy Standard** – allocate and let homes in a fair and transparent way, taking needs into account, provide tenancy support advice and assistance, ensure all licence agreements meet statutory and legal requirements, publish tenancy management policy
- **Neighbourhood and Community Standard** - promote social, environmental and economic wellbeing, have a policy to deter and tackle ASB and hate incidents, including reporting mechanisms actions and support, and a policy for how we recognise and respond to Domestic Abuse
- **Transparency, Influence and Accountability** (including Tenant Satisfaction Measures) - being open with tenants and treating them with fairness and respect so that tenants can access services, raise complaints, influence decision making and hold their landlord to account. Publish performance against the Tenant satisfaction Measures annually.

The Regulator also publishes a Consumer Standards Code of Practice which is to help tenants and landlords understand what is expected under the consumer standards and how landlords might deliver the outcomes of these standards.

4.8 We will ensure requirements are met by:

- The Council's Corporate Landlord team will build in works required to meet and maintain Decent Homes Standard into cyclical maintenance projections. It should be noted that all additional TA units subject to an Affordable Rent have been refurbished initially to a standard that will meet or exceed the Decent Homes standard
- Develop and publish a TA Policy that incorporates all of the Tenancy, Neighbourhood and Community, and Transparency Influence and Accountability Standards requirements
- Publish annual performance against the Tenant Satisfaction Measures for our TA residents
- Submit the annual return required

4.9 Due to being a small (less than 1,000 units) local authority landlord the regulation regime is less onerous compared to large local authority landlords and private registered providers (Housing Associations). The published regulatory approach at [Requirements and approach for different types of landlord - GOV.UK \(www.gov.uk\)](http://www.gov.uk) state the requirements for small local authority landlords as:

- "Not subject to programmed inspections (small landlords may be subject to inspections that are not programmed...)
- Regulatory Judgements published in certain circumstances
- Gradings under Review (where a landlord is being investigated due to suspected serious failings) list applies for the consumer standards
- Not subject to an annual review of TSM data (we may use their TSM data to inform our regulation)"

### ***Council Plan priorities***

4.10 There are a broad range of health, well-being and broader socio-economic inequalities for people affected by homelessness. Increasing the supply of self contained TA to prevent the use of B&B in conjunction with a continued focus on homelessness prevention will assist meeting Council priorities as below:

- *Economic - enable greater local opportunities for all people, communities and businesses.* Homelessness remains a key barrier to accessing employment.
- *People - encourage our residents to lead more active, fulfilling and independent lives to maintain or improve their health and wellbeing.* Where TA is required it is much more appropriate to offer self contained units rather than rooms in B&B to help maintain independence and better health and wellbeing.
- *Children - have the best possible start and are safe from harm, happy, healthy and learning well.* Self contained TA units are a more preferable environment for children rather than a room in B&B

### ***Risk management***

- 4.11 Potential to receive a poor Regulatory Judgement or action for any breach of RP requirements. This could have a reputational impact, and costs to rectify. For the less onerous regulation regime applied to small landlords (less than 1,000 units), and with relevant safeguards in place to meet the RP requirements as outlined in 4.8, the risk is minimal.

### ***Financial implications***

- 4.12 Capital resources being used to purchase additional TA units consist of
- £2.2m LAHF external grant funding ,
  - £1.5m S106 Affordable Housing Contributions
  - £6.4m Council capital.

The LAHF and S106 funds are being spent first to look to reduce impact on Council capital where possible. This capital investment will provide revenue savings against Housing Subsidy loss versus a no action approach.

- 4.13 Day to day repairs, void management and staffing costs are covered by rental income of these units and the wider existing TA portfolio. Council capital investment may be required to ensure the units are maintained to a Decent Homes standard which will be included in any Corporate Landlord Cyclical Maintenance Plan. It should be noted that the investment required to maintain Decent Homes Standard is likely to be a similar level to that of maintaining to our current standards.

### ***Legal implications***

- 4.14 The Council has a duty under the Housing Act 1996 to ensure that TA is available if required.

### ***Procurement /Social Value***

- 4.15 Properties are being refurbished by existing contractors sourced through an existing compliant procurement process.

### ***Property implications***

- 4.16 All assets are registered on the Asset Register and insurance schedules. Responsibility for cyclical maintenance and meeting the Decent Homes standard will be managed by Corporate Landlord.

### ***Health and wellbeing implications***

- 4.17 Minimising the impact of homelessness, and support to affected households provided by the proposed approach, helps to ensure the Council meets its objective of a Marmot Council.

## ***Reducing Inequalities***

- 4.18 The implications for reducing inequalities have been taken into account and assessed as set out in a detailed Equality Impact Assessment (EQIA) at **Appendix A**. Applicants aged 18 to 34 years (head of household) represent nearly 60% of households that are owed a duty. In line with national trends the most common age group in households owed a duty are also aged 25 to 34, however Walsall has an over representation of persons aged 18 to 24. For 23/24 service data 914 households had an ethnicity category completed which showed that households from black and minority ethnic households are adversely affected by homelessness, with 423 (46%) households from a white British background and the remaining 54% from White other groups, Black African/Caribbean/Black British households and Asian/Asian British respectively.

## ***Staffing implications***

- 4.19 The TA portfolio will continue to be managed by Customer Engagement, with any additional staffing costs covered by rental income. The Corporate Landlord team will manage the condition of the units within existing staffing resources.

## ***Climate Change***

- 4.20 The TA units will be refurbished to EPC rating C levels.

## ***Consultation***

- 4.21 Walsall's Homelessness Strategy 2023 to 2028, which contains the actions to complete a TA Options Appraisal and develop a policy for sourcing TA, had significant consultation, including focus groups with service users.

## **5. Decide**

- 5.1 A 'do nothing' option means that households continue to be placed in B&B, with resulting HB Subsidy loss for the Council, poor outcomes for customers, and it is illegal to keep families with Children in B&B for longer than 6 weeks.
- 5.2 Not becoming an RP means that we are unable to use £2.2m LAHF and £1.5m S106 to procure and refurbish additional TA units, and so this £3.7m would need to be met from Council capital instead.

## **6. Respond**

- 6.1 If approved officers will register with the Regulator of Social Housing and continue the programme of acquiring and refurbishing properties.

## **7. Review**

- 7.1 The outputs will be regularly monitored through the multi-agency Walsall Homelessness and Housing Steering Group, alongside monthly monitoring at Customer Engagement Strategic Management Team.



**Appendices:**

A: Equality Impact Assessment

**Background papers**

None

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