

# MIDDLESBROUGH COUNCIL

## EXECUTIVE SUB COMMITTEE FOR PROPERTY

BRINGING EMPTY PROPERTIES BACK INTO USE AS AFFORDABLE HOUSING

EXECUTIVE MEMBER FOR REGENERATION AND ECONOMIC DEVELOPMENT:  
COUNCILLOR CHARLES ROONEY

EXECUTIVE DIRECTOR OF NEIGHBOURHOODS AND COMMUNITIES:  
KEVIN PARKES

DATE: 29<sup>TH</sup> JULY 2013

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### PURPOSE OF THE REPORT

1. The purpose of this report is to seek the approval of the Executive Sub Committee for Property to lease four Council-owned properties in Gresham to the Middlesbrough Community Land Trust (CLT) for a five-year period at nil consideration.

### SUMMARY OF RECOMMENDATIONS

2. It is recommended that the Executive Sub Group for Property approves that the four properties, namely 132 Princes Road, 219 and 239 Union Street and 6 Enfield Street, are leased to the CLT for a period of five years at nil consideration.

### IF THIS IS A KEY DECISION WHICH KEY DECISION TEST APPLIES?

3. It is over the financial threshold (£150,000)
- It has a significant impact on two or more wards
- Non Key

### DECISION IMPLEMENTATION DEADLINE

4. For the purposes of the scrutiny call in procedure this report is:

Non-urgent

Urgent report

## BACKGROUND

5. Throughout Middlesbrough there are c. 750 residential properties that have been empty for more than six months. Any in year increase in empty properties directly reduces the level of New Homes Bonus (NHB) awarded. Conversely, a NHB payment is made for every empty property brought back into use. Consequently, tackling empties is now a strategic priority and the proposal set out below will form part of a wider approach being developed to tackle this issue.
6. In April 2012, the Council transferred three empty properties in Gresham to the Middlesbrough Community Land Trust (CLT), at nil consideration. The CLT is a company limited by guarantee, not-for-profit, constituted and made-up of local residents from Gresham. The CLT has subsequently refurbished these properties, using Round 1 Homes and Communities Agency (HCA) Empty Homes funding, and they have been let at an affordable rent to three local families in partnership with Endeavour Housing Association.
7. The CLT have now secured a further grant of £160,650 from Round 2 of the HCA Empty Homes Fund and made a request to the Council to transfer a further four properties (including two former shops with flats above) at nil consideration. The £160,650 will be used to refurbish the properties to a lettable standard.
8. The properties that the CLT have identified were acquired by the Council in the former Phase 3 Gresham clearance area. These properties have been offered as home-swaps to the owners of properties in Phases 1 and 2a but the estimated cost of refurbishment has proved to be prohibitive.
9. The CLT intend to engage with local contractors and volunteers to refurbish the dwellings and then let them with Endeavour Housing Association at an affordable rent. The CLT's bid proposes that the two former shop units would be converted into four single bedroom flats. The two residential units would be retained as family homes, giving six units of accommodation in total.
10. Details of the properties, including market value and refurbishment costs, are given in Table 1 below.

**Table 1 – Council-owned empty properties**

Property	Current use	Proposed affordable units	Market value	Estimated cost to Refurbish	Improved Value
132 Princes Road	Shop with flat above	2 x 1 bed flats	£35,000	£50,000	£104,000
219 Union Street	Shop with flat above	2 x 1 bed flats	£29,500	£50,000	£104,000
239 Union Street	Residential dwelling	1 x 2 bed house	£32,000	£30,000	£55,500
6 Enfield Street	Residential dwelling	1 x 2 bed house	£34,000	£30,000	£48,000
<b>Total:</b>			<b>£130,500</b>	<b>£160,000</b>	<b>£311,500</b>

## **OPTION APPRAISAL**

11. In assessing the best option for the Council to take this forward, a number of options have been explored which are summarised below and set out in Table 2:

### **Option 1 – Permanent asset transfer to CLT at nil consideration (CLT initial request).**

- CLT fund the refurbishment of the properties using c. £160,000 HCA grant.
- Over five years this option would generate c. £58,555 from Council Tax and New Homes Bonus.
- The Council would be permanently transferring assets valued at £130,500 to CLT.
- CLT would receive rental income in the region of £106,000 over five years (21k per annum in perpetuity). This is in addition to the annual rental income of £11,097.84 received from the three properties already transferred.

### **Option 2 – Sell properties on the open market in current condition.**

- If the market value of the properties were achieved, the Council could receive a capital receipt of £130,500, but the properties are likely to be difficult to sell in their current condition.
- Under this option, it cannot be assumed that further to the asset disposal the four units would be converted into six, as is the case under the other options.
- If the properties were refurbished and occupied as four units, they would generate c. £39,000 from Council Tax and New Homes Bonus over five years.
- Even if sold, no guarantee that the properties would be refurbished and occupied.

### **Option 3 – Council refurbishment and rental by Endeavour Housing**

- Council funds the refurbishment of the properties at a cost of £160,000 but this would be a further pressure on the capital programme.
- Properties would be leased to Endeavour Housing Association, with the Council receiving 75% of the affordable rental income, and the RP 25%.
- Council would receive rental income of around £80,000 over five years.
- Would generate c. £58,555 from Council Tax and New Homes Bonus over five years.
- Improved value of the properties is estimated to be £311,500.

### **Option 4 – Lease properties to the CLT for five years then full return to the Council**

- CLT fund the refurbishment of the properties using c. £160,000 HCA grant.
- CLT let the properties at an affordable rent for five years with Endeavour Housing Association.
- Council receives additional revenues of c. £58,555 from Council Tax and New Homes Bonus over five years.

- The properties could return to the Council after the five-year lease period, with an estimated improved value of £311,500. The Council could then receive the rental income from the model set out in Option 3 in perpetuity, or sell.
- The CLT would receive rental income in the region of £106,000 over five years (less Endeavour’s management fee).

12. Table 2 provides a summary of the net capital/asset value and revenue income for the Council and the CLT under each option, over a five year period.

**Table 2: Summary of financial benefits for the Council and the CLT**

Option	Units provided	MBC capital investment	MBC revenue income over five years			MBC capital / asset value	MBC capital & revenue	CLT income over five years	
			Rental income*	Council Tax **	New Homes Bonus ***			Rental income	Asset Value
Option 1	6 units	Nil	Nil	£26,616	£31,939	Nil	£58,555	£106,000	£130,500
Option 2	4 units	Nil	Nil	£17,744	£21,293	£130,500	£169,536	Nil	Nil
Option 3	6 units	(£160,000)	£79,764	£26,616	£31,939	£311,500	£289,819	Nil	Nil
Option 4	6 units	Nil	Nil	£26,616	£31,939	£311,500	£370,055	£106,000	Nil

\* Rental income – affordable rent over five years less 25% Endeavour management fee

\*\* Council Tax – 2013-14 Band A over five years.

\*\*\* The New Homes Bonus is paid over 6 years and sum shown is the total payment.

### Preferred Option

13. Whilst the Council has a growing track record of transferring assets to community organisations, this needs to be balanced against its own financial situation and the need to raise capital and identify opportunities for long term income generation. In light of this, the CLT has been advised that it is unlikely that a further permanent transfer of assets can be supported. Instead, consideration of a five year lease, with the properties then returning to the Council has been proposed and this is acceptable to the CLT.

14. From the Council’s perspective, Option 4 is the most financially attractive. Leasing the properties to the CLT will enable HCA grant to be drawn down to fund the refurbishment works. The Council would receive revenue income from Council Tax and New Homes Bonus, and at the end of the lease would benefit from an increased capital asset value.

15. The rental income generated by the CLT under Option 4 would supplement the organisation’s current income stream from the letting of the three properties previously transferred by the Council. The income will be reinvested in the organisation to achieve its stated aims, to:

- provide accommodation for those who need it most;
- improve the local environment;
- create employment opportunities; and,

- use the construction process to support access to employment, qualifications and further training.

16. Under Option 4, the properties would return to the Council at the end of the five year lease period. In order to contribute towards the corporate priority to increase revenue generation, they could be used to establish an arms length property portfolio, managed by a Registered Provider partner, and let on an affordable rent, or sold.

## **RISK ASSESSMENT**

17. The risks of leasing the properties to the CLT under Option 4 are given below.

- The properties may not be used as intended, not renovated or left standing empty. This is unlikely, given the conditions of the HCA funding and the track record of the CLT bringing properties back into use, but the lease agreement will include an appropriate clause to mitigate this risk.
- Financial mismanagement by the CLT – the CLT is a newly established body with limited experience. It is, however, a company limited by guarantee and a registered charity and is required to submit its audited accounts to Companies House and the Charities Commission on an annual basis. The Council will require the submission of a copy of the audited accounts for the period of the lease agreement. The CLT is also subject to regular financial audits by Tribal (who manage the empty homes programme on behalf of CLG) to demonstrate compliance with the conditions of the Empty Homes funding awards.
- CLT lack of experience in property management – the properties will be let in partnership with Endeavour Housing Association who will charge a management fee.
- Maintenance issues and health and safety liability – the lease agreement between the Council and the CLT would be drafted as a full repairing lease with all maintenance and health and safety obligations transferring to the CLT. Liability will then be passed to Endeavour as part of the subsequent lease agreement with the CLT.

## **IMPACT ASSESSMENT (IA)**

18. An initial Impact Assessment has been undertaken (Appendix 1), it shows that there will be no negative impacts as a result of the decision. The policy does not contravene Human Rights or Equality Acts.

## **FINANCIAL, LEGAL AND WARD IMPLICATIONS**

19. **Financial** – The main financial implications of the proposal outlined in this report are listed below. The matter has been discussed with Strategic Resources.

- The financial implications are set out in Table 2 above.
- Leasing the properties to the CLT does not require a Housing Revenue Account.

20. **Ward** – The proposal set out in this report affects the Gresham ward. It seeks to tackle the issue of empty homes and increase the supply of affordable housing options within the ward.

21. **Legal** – The main legal implications of the proposal outlined in this report are listed below.

- i) To ensure the completion of works, the Council will initially grant an agreement for lease. If the works are not completed in line with grant conditions, the Council will not grant a lease. The works will be the sole responsibility of the CLT.
- ii) The leases will be created between the Council and the CLT on a commercial basis. The Council will remain the freeholder of the properties. CLT is accessing the grant and the Council would not have any liability for clawback, which will be specified in the lease.
- iii) The leases will be contracted out of security of tenure under the Landlord & Tenant Act 1954. As such, CLT will not have any right to remain at the end of the five-year term of the lease and will be responsible for ensuring vacant possession at the end of the term.
- iv) Once in place, CLT would be responsible for all repairs and insurance etc.
- v) The lease will include a right to underlet (to a Registered Provider), together with a covenant specifying that any sub-underletting would have to be on assured shorthold tenancies, avoiding a situation where the head lease ends and individuals remain in occupation, thereby becoming secure tenants (with attendant rights to buy).
- vi) There are no procurement issues for the Council, as the CLT will receive the grant funding and appoint contractors.
- vii) State Aid – State Aid does not apply in this context as CLT is not a commercial organisation, it is a not-for-profit community organisation and the purpose of the proposed lease arrangement is maximise the opportunity to obtain Government funding and to deliver social housing.

## **RECOMMENDATION**

22. It is recommended that the Executive Sub Group for Property approves that the four properties, namely 132 Princes Road, 219 and 239 Union Street and 6 Enfield Street, are leased to the CLT for a period of five years at nil consideration.

## **REASONS**

23. The reasons for the recommendation are to:

- i) enable the properties to be brought back into use, subject to a successful funding bid;
- ii) increase the supply of affordable housing in the town;
- iii) make the best use of the housing stock;
- iv) increase the Council's New Homes Bonus;
- v) bring funding into the local economy; and,
- vi) provide opportunities for local people to gain skills.

## EXTERNAL INFORMATION SOURCES

Locality (2012) *State Aid in the context of Community Asset Transfer* [Online] Available at:  
<http://locality.org.uk/wp-content/uploads/State-aid-guidance-July-2012-final.pdf>  
(Accessed 25<sup>th</sup> April 2013)

Rightmove (2013) *Market trends in TS1* [Online] Available at:  
<http://www.rightmove.co.uk/house-prices-in-my-area/marketTrendsTotalPropertiesSoldAndAveragePrice.html?searchLocation=ts1>  
(Accessed 13<sup>th</sup> May 2013)

**AUTHORS: Andrew Cain & Sarah Brannen**  
**Housing Strategy & Implementation Group**

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**Address:** *P.O. Box 504, Civic Centre, Middlesbrough TS1 9FY*

**Web-site:** *www.middlesbrough.gov.uk*

**E-mail:** *andrew\_cain@middlesbrough.gov.uk*  
*sarah\_brannen@middlesbrough.gov.uk*

## LEASE OF PROPERTIES TO THE COMMUNITY LAND TRUST – INITIAL SCREENING ASSESSMENT

<b>Subject of assessment:</b>	Lease of Properties to the Community Land Trust.			
<b>Coverage:</b>	To lease four council-owned properties in Gresham to the Middlesbrough Community Land Trust (CLT) at nil consideration. The lease arrangement would enable government funding to be used to bring the properties back into use as affordable housing.			
<b>This is a decision relating to:</b>	<input checked="" type="checkbox"/> <b>Strategy</b>	<input type="checkbox"/> <b>Policy</b>	<input type="checkbox"/> <b>Service</b>	<input type="checkbox"/> <b>Function</b>
	<input type="checkbox"/> <b>Process/procedure</b>	<input type="checkbox"/> <b>Programme</b>	<input checked="" type="checkbox"/> <b>Project</b>	<input type="checkbox"/> <b>Review</b>
	<input type="checkbox"/> <b>Organisational change</b>	<input type="checkbox"/> <b>Other (please state)</b>		
<b>It is a:</b>	<b>New approach:</b>	<input checked="" type="checkbox"/>	<b>Revision of an existing approach:</b>	<input type="checkbox"/>
<b>It is driven by:</b>	<b>Legislation:</b>	<input type="checkbox"/>	<b>Local or corporate requirements:</b>	<input checked="" type="checkbox"/>
<b>Description:</b>	<p><b><u>Key Aims, objectives and activities</u></b></p> <p>The CLT has submitted a bid to the Homes and Communities Agency, to bring long-term empty properties (both residential and commercial) back into use as affordable housing. It is proposed to lease 4 properties to the CLT on a 5 year lease. The properties would benefit from being refurbished, and would remain in Council ownership, potentially increasing their asset value. This proposal supports the Council's ongoing strategy to support Gresham, it will increase the supply of affordable housing in the town and help to mitigate the impacts of the welfare reforms.</p> <p><b><u>Statutory drivers</u></b></p> <p>There are no statutory drivers at this stage.</p> <p><b><u>Differences from previous approach</u></b></p> <p>The CLT is a newly formed organisation made up of local residents, many of whom have been directly affected by the Council's Housing Market Renewal plans, and is a Company Limited by Guarantee. Previously the CLT bid for funding through the Empty Homes Fund, for which the Council agreed to transfer ownership of 3 properties. This proposal involves a lease arrangement.</p> <p><b><u>Stakeholders</u></b></p> <p>The main stakeholders are the Council, Middlesbrough Community Land Trust and Community Campus '87.</p> <p><b><u>Intended Outcomes</u></b></p> <ul style="list-style-type: none"> <li>• Four long-term empty properties will be brought back into use.</li> <li>• Increase the supply of affordable housing in the town.</li> <li>• Mitigate the impact of welfare reforms.</li> </ul>			

Live date: April 2013

**APPENDIX 1**

Life span: The properties must be brought back into use no later than 31 March 2015, for a five-year period.

Screening questions	Response			Evidence
	No	Yes	Uncertain	
<b>Human Rights</b> Could the decision impact negatively on individual Human Rights as enshrined in UK legislation? *	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The approval of the properties being leased seeks only to support the Council's ongoing strategy to support the Gresham area. It does not contravene the Human Rights legislation.
<b>Equality</b> Could the decision result in adverse differential impacts on groups or individuals with characteristics protected in UK equality law? Could the decision impact differently on other commonly disadvantaged groups? *	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The approval of the properties being leased seeks only to support the Council's ongoing strategy to support the Gresham area. The CLT engages carries out regular engagement with the community. Properties will be brought back into use will be let through the choice-based lettings system Compass.
<b>Community cohesion</b> Could the decision impact negatively on relationships between different groups, communities of interest or neighbourhoods within the town? *	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The approval of the properties being leased seeks only to support the Council's ongoing strategy to support the Gresham area. The CLT engages carries out regular engagement with the community. Properties will be brought back into use will be let through the choice-based lettings system Compass.
<b>Sustainable Community Strategy objectives</b> Could the decision impact negatively on the achievement of the vision for Middlesbrough? Does the decision impact on statutory duties associated with these key objectives? *	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The approval of the properties being leased seeks only to support the Council's ongoing strategy to support the Gresham area. It aims to increase the supply of affordable housing in the town, supporting the vision of Middlesbrough having a thriving, vibrant community.
<b>Organisational management / transformation</b> Could the decision impact negatively on organisational management or the transformation of the Council's services as set out in its transformation programme? *	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The approval of the properties being leased will ensure they remain Council assets, whilst enabling them to be improved. The CLT will be responsible for undertaking the renovation works as well as letting and managing the properties. It will not impact on the Council's transformation process.

<b>Assessment completed by:</b>	Sarah Brannen	<b>Head of Service:</b>	Andrew Carr
<b>Date:</b>	12 <sup>th</sup> April 2013	<b>Date:</b>	12 <sup>th</sup> April 2013

\* Consult the Impact Assessment further guidance appendix for details on the issues covered by each of these broad questions prior to completion.