
Report of Director of City Development and Director of Environments & Housing

Report to Executive Board

Date: 8th February 2017

Subject: Long Term Leases for 3rd Sector Affordable Housing Organisations

Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, name(s) of ward(s): Hyde Park and Woodhouse, Beeston and Holbeck, Gipton and Harehills, City and Hunslet	
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If relevant, access to information procedure rule number: 10.4(3)	
Appendix number: 1	

Summary of main issues

1. Gipton Supported Independent Living Limited (GIPSIL) and Canopy Housing Project (Canopy) are two Third Sector Housing Providers who currently directly lease 55 council owned properties and sublease 11 council owned properties from Unity HA at less than best consideration.
2. Both GIPSIL and Canopy wish to surrender their current lease arrangement with the council and enter into new long term 99 year lease arrangement on a peppercorn rental basis.
3. These long term leases would provide the organisations with the ability to secure in the region of £2m investment which they intend to utilise to facilitate a programme of acquisition and refurbishment of empty properties which will then be let as Affordable Housing.
4. As part of the refurbishment works the organisations will provide training and supported housing to vulnerable people whilst providing the Council with nomination rights.
5. This report forms part of the enterprising work streams set out in the "Housing Growth and High Standards in all Sectors" Breakthrough Project report which is elsewhere on this agenda.

Recommendations

6. Executive Board is asked to approve:
- i) The surrender of existing lease arrangements listed in confidential Appendix 1 between the Council, GIPSIL, Canopy and Unity Housing Association;
 - ii) The council entering into new 99 year leases and nomination agreements for all 66 council owned properties listed within Appendix 1 with GIPSIL and Canopy at Less Than Best consideration;
 - iii) The council entering into nomination agreements on any new properties acquired by GIPSIL or Canopy; and
 - iv) Delegate authority to the Director of City Development to approve terms of the new leases at less than best consideration based on a peppercorn rent of £1 per annum per property.

1. Purpose of this report

1.1 The purpose of the report is to:

- a) seek approval to the surrender of existing lease arrangements detailed in Confidential Appendix 1;
- b) seek approval to delegate authority to the Director of City Development approve terms of new 99 year leases and nomination agreements for the 66 subject properties detailed in Appendix 1 at £1 per property per annum.

2. Background information

- 2.1 The Council has worked in partnership with a number of 3rd sector Affordable Housing Providers to help bring empty homes back into use which helps to provide affordable housing as well as providing training and employment opportunities for homeless and vulnerable people.
- 2.2 GIPSIL and Canopy are two such organisations who have made significant contribution to returning empty homes back into residential use as well as supporting vulnerable individuals and families across the city for over 20 years.
- 2.3 This partnership relates to the Best Council Plan ambition for a Strong Economy and Compassionate City and to the outcomes it seeks to achieve regarding delivery of good quality, affordable homes and well cared for places and people.
- 2.4 The specialist nature of these 3rd sector organisations help to meet the diverse housing needs in the city, boost the local economy by often employing local companies and creating access to new employment opportunities.
- 2.5 Third sector partners are also key in helping the council deliver the successful neighbourhood improvements works undertaken as part of the Sustainable Communities Investment Programme in Harehills and Holbeck. This programme has helps to tackle the root causes and impacts of deprivation through comprehensive and concerted cross-service action to address multi-faceted challenges related to housing, health, employment and skills, the environment and community safety in some of the most deprived neighbourhood in the city.
- 2.6 Subject to the recommendations in this report being approved the organisations will commence an investment programme in the region of £2m to acquire and refurbish empty properties across the city.
- 2.7 Executive Board in September 2015 similarly approved a request by Leeds Action to Create Homes (LATCH) to delegate authority to the Director of City Development to approve 99 year leases on thirteen council owned properties at less than best consideration of £1 per annum to LATCH

Current Lease Arrangements

- 2.8 The Council has previously granted GIPSIL and Canopy long term leases of vacant council owned properties listed in appendix 1 which were deemed to be hard to let and have not had Decent Homes works undertaken by the council.

- 2.9 The majority of the leases have unexpired terms of between 15-20 years still remaining and are based on less than best leasing arrangements of £1 per annum per property.
- 2.10 Additionally the Chief Planning Officer in September 2014 approved a recommendation to utilise unspent Affordable Housing Commuted Sum to provide a £200,000 loan to Canopy to refurbish 7 council owned properties which had been vacant for a consideration amount of time and are include within the attached appendix
- 2.11 As part of this loan arrangement Canopy has brought the 7 properties back into use and will begin repaying the loan in late 2017. The Council has secured it interests by placing a registered charge on the titles of these properties which will be removed once the loan is repaid.
- 2.12 Separately, Unity Housing Association has subleased 11 council owned properties to Canopy HA, who have in turn brought the properties up to standard and provide a good housing management service.
- 2.13 All of the subject council owned properties have been brought up to Decent Homes Standard and are listed in Confidential Appendix 1.
- 2.14 Canopy and GIPSIL have demonstrated that they are viable and successful organisations that can both project manage refurbishment of vacant properties and provide good supported housing functions.
- 2.15 They work closely with the local authority and other partner organisations to make tenancies sustainable and support community cohesion.
- 2.16 Their work has received recognition and support locally, nationally and internationally with Canopy jointly winning the 2015/16 United Nations World Habitat Award for empowering communities and transforming people's lives by creating affordable and safer homes for those in need.

3. Main issues

- 3.1 Canopy and GIPSIL currently lease 55 properties from the Council at less than best consideration, Canopy also sublease a further 11 Council owned properties from Unity HA. The addresses of the subject properties are listed in the confidential appendix one.
- 3.2 Unity HA has confirmed that they are willing to surrender their existing leases to the council to allow the proposal to proceed.
- 3.3 Canopy and GIPSIL have recently approached the council seeking to surrender the current lease arrangements and request that new 99 year leases are granted on all 66 properties to enable them to secure additional finance to facilitate a wider programme of acquisition and refurbishment of empty properties across the city.
- 3.4 It is requested that the new leases are approved on less than best terms and are charged a peppercorn rent of £1 per property per annum.

- 3.5 The existing leases have clauses relating to periodic break clauses which can be triggered by either the council or the leaseholder. This has created barriers for the organisation to secure funding as there is no security in the length of tenancy.
- 3.6 It is therefore requested that as part of the new leases the break clauses are removed to enable the organisations to maximise development finance opportunities which will then be reinvested into acquiring and renovation vacant properties in the city.
- 3.7 As part of the current and proposed leases Canopy and GIPSIL will continue to be responsible for all management, refurbishment and maintenance functions of the 66 units. This would ordinarily cost the Council in the region of £117,330 per annum based on average Maintenance and Management costs (However given that the majority of the subject properties are pre 1919 terraced housing it is envisaged the annual maintenance costs for these properties is likely to be above average) .
- 3.8 On the expiry of the existing leases in 15-20 years time, the council will forego a rental stream in the region of £250,438 per annum to the Housing Revenue Account. This will in part be offset by the saved maintenance and management costs.

Benefits to the Council

- 3.9 The granting of these leases will enable the organisations to secure borrowing in the region of £2m which will help facilitate the purchase and refurbishment of around 25 new Affordable Homes in the city.
- 3.10 The leases will require the organisations to let the subject and future acquired properties at Affordable Rent levels as well as granting the council nominations on first and subsequent lets.
- 3.11 The new tenants will benefit from the supported housing service which both organisations offer to ensure that tenancies are sustainable.
- 3.12 The organisations will be required to purchase new properties within the city and council will look to work closely with both organisations to prioritise the acquisition of Long Term Empty (i.e. empty for over 6 months) properties or vacant properties which are blighting neighbourhoods.
- 3.13 A good example of this can be seen in how third sector partners have helped the council to achieve its ambitions set out in the Sustainable Communities Investment Programme in Cross Green and Harehills. This programme is also currently ongoing in Holbeck where a number of the subject properties listed in the appendix are located.
- 3.14 Members may recall the 'Investing in our Neighbourhoods – a review of the Sustainable Communities Investment programme and the opportunities for Holbeck' report which was approved by Executive Board in November 2016.
- 3.15 Bringing long term vacant properties back into use also enables the council to claim additional finance via the governments New Homes Bonus incentive.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Executive Member with responsibility for Regeneration, Transport and Planning was consulted and is supportive of the proposals.
- 4.1.2 Ward Member Consultation has been undertaken, although some members did not respond to the consultation of those that did the majority are broadly supportive of the proposals. Some members did raise concerns relating to deliverability and Nomination rights which will be addressed within the new Nomination and Legal Agreements both organisations will be required to sign up to
- 4.1.3 Unity HA confirmed that they are supportive of the proposal to surrender their existing lease arrangements with the council to enable the 99 year leases to Canopy to proceed.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An equality, diversity cohesion and integration screening exercise has been carried out and is attached as an appendix. The outcome of the screening exercise confirmed that equality, diversity, cohesion and integration considerations have been effectively considered in relation to this proposal and that a full impact assessment was not required.
- 4.2.2 As the proposal will deliver additional Affordable Housing to the city it is envisaged that this will have positive implications for groups who are economically disadvantaged.

4.3 Council policies and best council plan

- 4.3.1 This proposal shows the Council to be enterprising and compassionate by utilising its assets in an efficient way by facilitating 3rd Sector Organisations to boost the delivery good quality, affordable homes and reduce the number of long term empty properties in the city.
- 4.3.2 Increasing Housing Growth and standards in all sectors is one of the Council's 8 Cross Cutting Breakthrough projects.
- 4.3.3 This proposal also helps to address a number of other priorities in the Best Council Plan including:
 - Supporting economic growth and access to economic opportunities
 - Providing skills programmes and employment support
 - Provide enough homes of a high standard in all sectors
 - Keeping people safe from harm
 - Building capacity for individuals to withstand or recover from illness

4.4 Resources and value for money

- 4.4.1 The granting of the new 99 years leases will enable the organisations to secure in the region of £2m which they intend to utilise by acquiring and refurbishing properties within the city.
- 4.4.2 The council will continue to receive nomination rights on first and subsequent lets.
- 4.4.3 The values forgone and added benefits to which this proposal will provide are set out in points 3.7 to 3.13.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The properties comprise land held for the purposes of Part II of the Housing Act 1985 and consent for disposal must be obtained in compliance with Section 32 of the Act Executive Board approval is therefore sought subject to Secretary of State Consent.
- 4.5.2 As the proposal to lease the properties at less than best consideration without any element of competition constitutes the provision of a subsidy, the Council needs to be satisfied that the proposed disposal does not contravene the European Commission's State aid rules.
- 4.5.3 Funding for the provision of social housing is considered to be a Service of General Economic Interest (SGEI) provided that the recipient of the subsidy is placed under an obligation to provide the social housing and the subsidy is necessary to enable them to provide this function. These obligations will be set out in the leases and nomination agreements. .
- 4.5.4 There is a risk that after 2 years the organisations would acquire a statutory right to purchase the freehold of the houses (known as leasehold enfranchisement) under the Leasehold Reform Act 1967. This right applies to non-resident tenants such as the organisations, although additional restrictions on the right to acquire apply if the lease is deemed to be a business tenancy under the provisions of the Landlord and Tenant Act 1954.
- 4.5.5 The form of lease proposed for the properties would meet the criteria of section 9 (1A)9 (1C) of the Leasehold Reform Act 1967, which is known as the Special Valuation Basis which, subject to the lease having less than 80 years unexpired, allows the addition of a sum for 'marriage value' as part of the compensation to the freeholder.
- 4.5.6 If the organisations choose to exercise this right the council will undertake a valuation to determining the purchase price is set out in the legislation. This is based on the principle not to provide a forced bargain for the leaseholder, but to adequately compensate the freeholder for the loss of his property based as closely as practicable on open market values.
- 4.5.7 The organisation could also apply for the grant of a longer lease increasing the existing term by an additional 50 years.
- 4.5.8 The council will report back to Executive Board any additional changes to the leases if this situation arises.
- 4.5.9 This report will be subject to call-in.
- 4.5.10 The information contained in Appendix 1 is exempt under Access to Information Rule 10.4 (3) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). As this report relates to the granting of leases to 3rd sector affordable housing providers it is considered that the public interest in maintaining the content of Appendix 1 as exempt outweighs the public interest in disclosing the information.

4.6 Risk management

- 4.6.1 If Executive Board chooses not to approve this report the organisations will not be able to borrow against the properties to raise the necessary finance needed to acquire vacant properties.
- 4.6.2 This would mean the potential loss of c£2m worth of investment and potential housing growth to the city.
- 4.6.3 The organisations however will still be able to continue with the current business models.

5. Conclusions

- 5.1 Canopy and GIPSIL currently lease 55 properties from the council at less than best consideration as well as Canopy subleasing 11 properties from Unity HA which still have 15-20 years to run. All 66 properties are owned by the Council and are listed in confidential appendix 1.
- 5.2 Canopy and GIPSIL have approached the Council seeking to surrender the current leases arrangements and request new 99 years leases on the 66 subject properties to enable them to secure £2m investment to facilitate a wider programme of acquisition and refurbishment of empty properties across the city.
- 5.3 If approved this scheme will help to reduce the number of vacant properties and contribute towards a number of council priorities set out within the report.
- 5.4 This report forms part of the enterprising work streams set out in the “Housing Growth and High Standards in all Sectors” Breakthrough Project report which is members will have considered elsewhere on this agenda.

6. Recommendations

- 6.1 Executive Board are asked to approve:
 - i) The surrender of existing lease arrangements listed in confidential Appendix 1 between the Council, GIPSIL, Canopy and Unity Housing Association;
 - ii) The council entering into new 99 year leases and nomination agreements for all 66 council owned properties listed within Appendix 1 with GIPSIL and Canopy at Less Than Best consideration;
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 - iv) Delegate authority to the Director of City Development to approve terms of the new leases at Less than Best consideration based on a peppercorn rent of £1 per annum per property.

7. Background documents¹

- 7.1 None.

¹ The background documents listed in this section are available to download from the Council’s website, unless they contain confidential or exempt information. The list of background documents does not include published works.