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## Report of the Director of Environment and Neighbourhoods

Executive Board: 15th December 2010

Subject: Development of a Rent to Mortgage housing model

<p><b>Electoral Wards Affected:</b></p> <p>Killingbeck and Seacroft Gipton and Harehills</p> <p><input checked="" type="checkbox"/> Ward Members consulted (referred to in report)</p>	<p><b>Specific Implications For:</b></p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input checked="" type="checkbox"/></p>
Eligible for Call In <input checked="" type="checkbox"/>	Not Eligible for Call In (Details contained in the report) <input type="checkbox"/>

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### EXECUTIVE SUMMARY

This report proposes the use of a new housing product to support people moving from renting to purchasing their homes. In order to support the development of mixed communities in the East and South East Leeds regeneration area and to develop the local housing "ladder" of flexible tenure options, a "rent to mortgage" product for the EASEL property acquisitions is being developed. A rent to mortgage scheme provides an opportunity for individuals to rent a property for a specified period of time during which there is an opportunity to either acquire the property outright or to acquire it by way of a shared ownership lease enabling the occupant to buy the property in stages. The development of the model therefore reflects the aspiration to develop the housing ladder in the area.

The report requests approval to disposal of ten properties to East North East Homes Limited and approve the implementation of a "rent to mortgage" scheme as set out in this report.

## **1.0 Purpose Of This Report**

- 1.1 This report proposes the use of a new housing product to support people moving from renting to purchasing their homes. It follows the Executive Board report dated 13<sup>th</sup> February 2009 entitled 'Support for the Affordable Housing and Regeneration Priorities' and relates to the acquisition of 20 houses as part of the East and South East Leeds (EASEL) phase 1 housing development in Gipton and Seacroft.

## **2.0 Background Information**

- 2.1 In order to support the EASEL mixed communities objective and to develop the local housing "ladder" of flexible tenure options, a "rent to mortgage" product for the EASEL property acquisitions is being developed. The model is an established product which is used by Registered Social Landlords (RSLs) nationally and if successful this form of intermediate tenure could be introduced in a number of locations across the city.
- 2.2 The 'Analysis of the Leeds Housing Market' (2007) collated findings from a range of research into housing market trends and housing needs in Leeds. Research into the demand for social housing highlighted that there are missing rungs in the middle of the 'housing ladder'. Households on low incomes are finding it increasingly difficult to purchase their own home or rent privately. The report concluded that intermediate housing formed only a small percentage of the housing market and the development of flexible tenures are needed to address financial stability and viability of home purchase.
- 2.3 The council's primary regeneration objective in east and south east Leeds is to secure the economic, social and environmental well-being of the area and its residents. The development of "mixed communities" (i.e. mixed tenure/mixed income housing areas) has underpinned much of the programme and the Gipton area was chosen by Communities and Local Government (CLG) as a mixed communities demonstration project.
- 2.4 In essence, a rent to mortgage scheme provides an opportunity for individuals to rent a property for a specified period of time during which there is an opportunity to either acquire the property outright or to acquire it by way of a shared ownership lease enabling the occupant to buy the property in stages. The development of the model therefore reflects the aspiration to develop the housing ladder in the area.
- 2.5 To facilitate the scheme all of the properties would be leased to an intermediate landlord, in this case East North East Homes Leeds (ENEH), with the freehold remaining in the ownership of the Council. ENEH will then make the properties available on Assured Shorthold Tenancies (AST) to occupiers who will have the opportunity either to acquire the freehold of the property or take a shared ownership lease within a predetermined period. The main elements of an AST and a shared ownership lease are set out below at section 3.
- 2.6 It is intended that the scheme would be aimed at individuals who would not otherwise qualify for a social rented home (or would be unlikely to be allocated one) but who could neither afford to buy a home outright nor have a large enough deposit available to be able to obtain a mortgage, but who would be able to purchase at some time in the future. Unlike other schemes developed by the council (e.g. the Gipton Homebuy scheme) a rent to mortgage scheme would not require individuals to secure a mortgage immediately. Rather, it would allow them to rent a property at an intermediate rent (i.e. a rent above social rent but below

market rent) and give them time to save for a deposit sufficient for them to be able to purchase the property either outright or through shared ownership.

- 2.7 The proposed criteria for participation in the scheme are attached at Appendix 1. However, it should be noted that the criteria may have to evolve depending on various factors such as the demand for the scheme. It is therefore proposed that the Director of Environment and Neighbourhoods be given delegated authority to make future amendments to the criteria as required.
- 2.8 In February 2009, the Executive Board approved the purchase of 20 properties at the Oaks, Gipton and Parkside, Seacroft from Bellway Homes with the intention of offering residents a mix of council rented and intermediate rented properties (rent to mortgage or similar). Ten of these properties have already been made available for social housing and it is now proposed that the remaining ten properties be made available to residents in accordance with the proposed rent to mortgage scheme.
- 2.9 All the properties intended for this scheme are two bed houses: numbers 14,15,16,18 and 19 The Oaks and numbers 127,128,129,130 and 139 Parkside. A plan showing the location of the properties is attached as Appendix 3.

### **3.0 Main Issues**

- 3.1 The operation of this scheme will entail the Council granting leases of the properties to East North East Homes (ENEH) who will in turn grant Assured Shorthold Tenancies (AST) to the occupants who will have the opportunity within a predetermined period to acquire the property outright or take a shared ownership lease. Whilst the scheme is similar to schemes operated by RSLs across the country, RSLs operate under a different statutory regime.
- 3.2 It is proposed that the properties would be let to ENEH by way of a lease for an appropriate period having regard to the objectives of the scheme. The lease would be at nil consideration, either by way of a peppercorn rent or, if necessary for the purpose of the General Consents referred to later in this report, at market rent subsidised by means of a grant from the Council to ENEH.
- 3.3 The AST will be between ENEH and the occupants. An AST can run on a weekly, monthly or other periodic basis, and could be brought to an end either to allow the tenant to purchase the property or, if the tenant is unable or unwilling to acquire the property to enable ENEH to recover possession. In addition, it would also allow ENEH to take action for a breach of any of the terms of the tenancy such as non-payment of rent or anti-social behaviour. The rent payable by the tenant would be an intermediate rent described in further detail below.
- 3.4 The scheme requires the use of ASTs in order to make the scheme flexible enough for it to provide a way for residents to progress to ownership. Since the Council cannot itself grant ASTs it needs to lease the properties concerned to ENEH. The grant of an AST also gives ENEH the ability to deal effectively with situations where individuals are unable to acquire the property so that others can be given an opportunity to do so.
- 3.5 It is anticipated that the scheme will be attractive to individuals who aspire towards home ownership but who do not have a deposit in place to buy a property or are unable to access social housing. Such individuals would be able to acquire the property concerned either outright or on a shared ownership basis within a period of four years or as otherwise determined by the director of Environment and Neighborhoods

- 3.6 An individual's ability to participate in the scheme will be determined by way of eligibility criteria. Amongst other matters, these criteria will initially give priority to people already living and/or working in the EASEL area. All participants in the scheme will also have to demonstrate that they intend and are likely to be able to acquire the property within the timescale referred to above. ENEH have gained considerable experience of operating this kind of process via the Gipton Homebuy scheme, and it is proposed that they would administer the scheme in accordance with the eligibility criteria set out in Appendix 1 or as otherwise determined by the Director of Environment and Neighbourhoods.
- 3.7 At the time that they apply, it will be made clear to participants that the intention is for the scheme to be a stepping-stone towards ownership, albeit one which does not require a mortgage or a deposit to be in place immediately. The rent each property on an AST would be an "intermediate rent" which will be the equivalent of 80% of the market rent (though it is anticipated that this will still be higher than the social rent for such properties). The purpose of having an intermediate rent will be to allow the tenant to be able to save towards a deposit and fund their acquisition of the property at a later date. The amount of the intermediate rent will be determined by the Director of City Development.
- 3.8 At any time during the period of their AST, the tenant will be able to elect to buy the property either by way of outright purchase or by taking a shared ownership lease from the Council. The shared ownership lease will be granted by the Council on payment by the tenant of a premium calculated by reference to the market value of the share of the property which they are buying (which will be no less than 25%). The lease will also provide that the tenant can purchase further shares of the property and that if they wish to they will ultimately be able to purchase the freehold of the property from the Council.
- 3.9 Under a shared ownership lease, the tenant buys a 'share' of the property and pays rent on the remaining share of the property (which remains in the ownership of the Council). The Tenant can buy further shares in the property at the market value of those shares at the time of purchase. Buying further shares is referred to as 'staircasing'. When the tenant owns 100%, he or she can acquire the freehold in the property for no charge. As the tenant buys further shares, the rent will be reduced proportionately to reflect the fact that the Council's interest in the property has reduced.
- 3.10 Although initially the property is not owned outright, the tenant does have the normal responsibilities of a full owner. This means, for example, that the tenant will be obliged to pay 100% of the outgoings relating to the property and to keep the property in good and substantial repair and condition.
- 3.11 The rent under the shared ownership lease will be reviewed every year. The reviewed rent will be increased in line with any proportionate increases in the retail prices index (RPI). The rent will be reviewed on an 'upwards only' basis. This means that the level of rent will not go down when it is reviewed.
- 3.12 The following is a worked example to illustrate how the model works.

<b>Property Type: 2 bedroom property with off road parking, Parkside, Seacroft.</b>		
<b>Intermediate rent payments</b>		
Market rent pcm = £525	Intermediate rent payments at 80% of market rent pcm= <b>£420</b>	
<b>Shared ownership</b>		
<ul style="list-style-type: none"> <li>- Market value of the property £100,000.</li> <li>- Assuming nil deposit for the purpose of illustration (this would need to be negotiated with the lender, dependent on mortgage products) £100,000 mortgage would cost approximately £644 pcm based on 6% interest rate, repayment over 25 years.</li> <li>- Monthly rent calculated as a proportion of remaining value in a property per annum, this follows the HCA and RSLs who calculate on a basis of 3%</li> </ul>		
25% shared ownership	50% shared ownership	75% shared ownership
monthly mortgage value for £25,000 = £161	monthly mortgage value for £50,000 = £322	monthly mortgage value for £75,000 = £483
£75,000 remaining value (3%) = £187.50	£50,000 remaining value (3%) = £125.00	£25,000 remaining value (3%) = £62.50
<b>Total = £348.50</b>	<b>Total = £447</b>	<b>Total = £545.50</b>

#### **4.0 Implications For Council Policy And Governance**

- 4.1 It is important to understand what will happen if either the tenant is unable to proceed to purchase the property or chooses not to for some other reason. Appendix 2 sets out the potential courses of action in the event of this occurring and paragraph 6 of this report outlines the risk.
- 4.2 Ward member consultation on the development of intermediate rent products took place in 2009 prior to the Executive Board report. However, further ward member consultation will take place to provide the detail on this proposal prior to the Executive Board meeting.

#### **5.0 Legal And Resource Implications**

- 5.1 The scheme requires the use of assured shorthold tenancies (AST) to ensure that it can operate effectively. As outlined above, the Council cannot grant ASTs so in order to facilitate the scheme it will therefore be necessary to grant leases of the properties to East North East Homes Limited (ENEH) who will undertake to manage them for the purposes of and in accordance with the objectives of the scheme. Section 32 of the Housing Act 1985 gives the Council the power to dispose of any property that it holds for the purposes of Part II of that Act subject to obtaining the consent of the Secretary of State to the disposal.
- 5.2 The Secretary of State has issued a general consent upon which the Council could rely. There is though a financial limit as to the value of disposals which the Council can make under the consent in any financial year and in the circumstances it may be advantageous for the Council to apply for specific consent for the disposal to ENEH so as to retain flexibility as to the future use of the consent. The appropriate

course of action will be determined by the Director of Environment and Neighbourhoods in consultation with the Director of City Development.

- 5.3 In addition, Section 2 of the Local Government Act 2000 provides that the Council can do anything which it considers is likely to achieve the promotion and improvement of the economic, social or environmental well-being of its area and/or anybody living and/or working in its area.
- 5.4 In determining whether or not and how to exercise its well-being powers, the council must have regard to its sustainable community strategy, which is the Vision for Leeds. Within this document the themes of “thriving places” and “harmonious communities” are relevant.
- 5.5 In relation to the use of the Council’s well-being powers, Executive Board should consider whether well-being is likely to be improved or promoted as a consequence of the proposals set out in this report. The reports of the Director of Neighbourhoods and Housing and the Director of Development to Executive Board in 2007 set out regeneration objectives and priorities for the EASEL area with a view to securing its economic, social and environmental well-being.
- 5.6 Using well-being powers in this way fits with the overall approach taken throughout the development of the EASEL initiative including the establishment of the Joint Venture Company, to deliver mixed communities.
- 5.7 Section 27 of the Housing Act 1985 prohibits the Council from entering into any management agreement in respect of its housing stock without the consent of the Secretary of State. Advice has therefore been sought from Communities and Local Government (CLG) regarding the Council’s ability to operate the scheme with ENEH within the Council’s existing Section 27 agreement and consents. CLG has confirmed that no variation to this agreement will be required, other than to include the properties within the current Management Agreement with ENEH.
- 5.8 An Equality Impact Assessment will need to be undertaken following approval to develop the model.

## **6.0 Risks**

- 6.1 In using wellbeing powers under Section 2 of the Local Government Act 2000, the matter is not free of risk.
- 6.2 Challenges may range from the general use of the well being power in these circumstances to individual challenges brought in relation to decisions regarding eligibility and termination both during and at the end of the AST.
- 6.3 From a housing perspective, challenges may be brought on the basis that the existing secure/introductory tenancy regime allows the Council to achieve the scheme objectives through the Right to Buy/Discounted Purchase price and that the proposed route is designed to avoid the security of tenure enjoyed by Council tenants. However as described above the scheme is aimed at individuals who would not otherwise qualify for a Council tenancy or would be unlikely to be allocated one under the priority system. The participants in the scheme would be selected through eligibility criteria and would therefore enter into the scheme in the knowledge that the intention is to provide an affordable housing option designed to support housing opportunities and make a positive contribution to the well being of the community.

- 6.4 Furthermore the risk of challenge will increase if tenants are unable to proceed to purchase but wish to remain in occupation. Whilst this potential challenge can be managed to some extent by ensuring that all parties are aware of the purpose of the scheme at the outset, this remains a risk. Support and assistance will be given to the tenant to ensure that their options are understood and reviews of their ability to purchase will be carried out on a regular basis. Appendix 2 summarises the issues and risks associated with this.
- 6.5 There may also be Human Rights challenges on the scheme and in particular decisions to bring the AST to an end and the ALMO will need to ensure that it has robust processes in place. The nature of the challenges could focus on the decision making process leading up to the termination of the AST. It is proposed that any decision making process involving termination will take into account the current legal guidance. However, this is an area of law has seen considerable development over the last few years and further guidance is expected from UK Supreme Court shortly which may alter the position further.
- 6.6 Furthermore, the council may owe housing duties to tenants who cannot proceed to the purchase stage and have no reasonable prospects of doing so i.e. through loss of income etc. This may trigger wider housing duties such as under the homeless legislation and may place additional pressures on other social accommodation. Individuals may be well settled and reluctant to move.

## **7.0 Conclusions**

- 7.1 A rent to mortgage product together with other affordable housing options meets the aspiration of a housing ladder. It enables people to rent a property with a view to purchasing their home within a reasonable timescale.
- 7.2 For the reasons set out in this report the Director of Environment and Neighbourhoods is of the opinion that the provision of a "Rent to Mortgage" scheme on the basis set out in this report will promote and/or improve the social, economic and environmental well-being of the area.

## **8.0 Recommendations**

Members being satisfied that the implementation of a “Rent to Mortgage” scheme as set out in this report is likely to promote and/or improve the social, economic and environmental well-being of the area, Executive Board is asked to:

1. Approve the implementation of a “Rent to Mortgage” scheme as set out in this report.
2. Approve in principal the disposal of ten properties to East North East Homes Limited on the terms set out in this report so as to facilitate the implementation of the Rent to Mortgage scheme.
3. Approve the eligibility criteria for participation in the scheme as annexed to this report.
4. Delegate the ability to make changes to the eligibility criteria to the Director of Environment and Neighbourhoods.
5. Subject to all necessary consents being obtained delegate the settlement of detailed terms for the leases from the Council to East North East Homes Limited to the Director of City Development.
6. Delegate the approval of the terms of the Assured Shorthold Tenancy and the determination of the amount of the intermediate rent to the Director of Environment and Neighbourhoods and the Director of City Development.

## **9.0 Appendices**

Appendix 1 – Proposed Eligibility Criteria

Appendix 2 – Options in respect of termination of AST

Appendix 3 – Map to show location of properties

## **10.0 Background Papers**

Executive Board report “Support for the affordable housing and regeneration priorities”  
13th Feb 2009

Executive Board reports titled East and South East Leeds Regeneration Area 2007