

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CABINET**

DATE: **TUESDAY, 15TH OCTOBER 2013**

REPORT BY: **DIRECTOR OF COMMUNITY SERVICES**

SUBJECT: **DEVELOPING THE FLINTSHIRE HOUSING OFFER
THROUGH ESTABLISHMENT OF A HOUSING
COMPANY**

1.00 PURPOSE OF REPORT

1.01 To explain potential long term strategic aspirations for the Council and its housing service “offer”; and to seek approval in principle, subject to full risk analysis and governance advice, to the establishment of a Housing Company “Flintshire Homes and services”, that could be instrumental in delivering this vision.

2.00 BACKGROUND

2.01 The council now has a range of housing services for which there has been positive improvement. There is growing confidence both externally and internally that services will continue to improve and will achieve excellence.

2.02 However this progress is being made at a time when residents of the County are facing increasing difficulty in accessing affordable housing due to economic pressures, welfare reform and the challenges experienced in accessing mortgage finance; and in addition to this the number of new homes being developed to meet emerging needs has been stagnant for the last few years (despite planning approvals being provided and land being available for development).

2.03 To try to find ways to address these challenges, the council has been innovating and developing new ways to achieve its affordable housing provision and this report identifies some of the barriers to implementing this that the council is facing immediately and longer term if its aspiration to be both a strategic enabler and provider of a range of affordable housing products is to be realised.

2.04 This paper identifies a proposed way forward that would provide much needed additional flexibilities for the council to meet its Local Housing strategy targets for new and additional homes across a range of tenures.

3.00 CONSIDERATIONS

- 3.01 Unfortunately the current statutory limitations which govern the Councils ability to grant tenancy agreements are very restrictive and mean that in all but exceptional circumstances the council is obliged to grant a full secure tenancy to its tenants. In addition, where properties are held in the HRA rents must comply with the WG Rents benchmarking regime effectively causing problems where the council wishes to charge an affordable or market rent.
- 3.02 Officers, with the support of Senior members are working on a number of new initiatives to meet local needs and grow the Councils service delivery offer and are finding that a number of new opportunities cannot be taken forward satisfactorily due the constraints placed on the Council through its current structures.

Potential Service Developments Private Sector Leasing

- 3.03 The Local Authority is working with a number of private landlords in Flintshire to explore options for leasing and management of their properties. The Local Authority is keen to lease or manage a range of property types that can be used to meet a range of needs. This is also being seen as an opportunity to encourage the growth of the private rented sector which is increasingly becoming a tenure of choice for those unable to access mortgage finance. There are a number of investors happy to invest in property but not keen to take on management responsibilities. The council is viewed as a trusted provider in this regard.
- 3.04 The council has experience and expertise in property management and repair and maintenance. The pending homeless legislation will allow councils to discharge their homeless duty into the private rented sector and to encourage landlords to do this, the council needs a “management offer” which can offer reassurance to private landlords that should they house tenants at LHA rent levels rather than market rents, that the council can ease any perceived management burden by directly managing the property itself, and making sure that where tenants need support to manage the tenancy that this support is in place.
- 3.05 It would also seem to make sense that where the council is working with property owners who are receiving loan funding from the public sector that it has a management offer available too.

Elderly Home Owners

- 3.06 Many home owners wish to access more suitable accommodation (for health reasons), in the county’s council stock but are currently in some cases, prevented from doing so as they receive insufficient priority on

the Councils waiting list. (They receive deduction points based on the value of their property). In many cases this capital value however makes purchasing more suitable property very challenging.

- 3.07 Flintshire Council has a good supply of property suitable for older people- nearly 50% of its stock, and needs additional 2/3 bedroom family homes for temporary and longer term use at affordable rents. Were the council able to lease the property from the home owner for 5-10 years and let it, the council could meet identified needs; the home owner would receive an income (net of a management fee) to enable them to pay rent and could be re-housed by the council into more appropriate property which they would find easier to manage and which could help to address social isolation.

Regeneration Schemes

- 3.08 As part of delivering the Town Centre master plans, proposals are being developed for mixed tenure new housing developments. Without a holding company being established then the council is more limited in the range of solutions it can provide as a direct provider of new homes. Social rented homes can be provided for in the HRA but affordable rent, market rent and low cost home ownership would be challenging to deliver without a new legal structure in place.

Empty Homes

- 3.09 Members are aware that the council has been successful at bringing a number of empty homes back in to use over recent times via its own Housing Capital programme and Welsh government Houses to Homes funding. The Houses to Homes scheme places no requirement on the property owner to re house local people in partnership with the local authority and therefore they can choose to let property at market rents which may not always be the council priority for a particular location. There has been a recent example of this where an owner was happy in principle to lease his properties to the council (which had been improved with loan funding from Welsh Government), but the council was advised that the property would either need to be let as secure tenancies, or, if they were used for homeless people on temporary license arrangements. The plan was to use them for temporary decants or for affordable rent, so neither option was ideal.

Gifted Units

- 3.10 Over the last two years the Council has reached agreement with a small number of private developers for them to gift properties to the council as part of meeting their s106 obligations. During the next 18 months 24 properties will be built and gifted to the council's ownership. The benefit of this arrangement is that the Council has properties it can let to meet local needs for social and affordable

housing, providing a new revenue stream, and in addition, the council has unencumbered assets on which it could borrow to fund other priorities for capital funding. The first four of these homes are expected to be completed ready for transfer to the Council in September 2013. The need for a company to hold these properties outside the housing revenue account is now urgent.

- 3.11 To meet need in the locations where these homes are being developed, a range of tenure options need to be available to the Council. In some locations new units of social housing are what is needed while in others it is the intermediate rental market. Were a broader range of tenancy options available, this would introduce an additional level of flexibility for the Council in meeting need.

Housing Trading Company

- 3.12 One possible way to deliver several of these aspirations would be to establish a Housing company. Any property owned by the company or for which it had leases in place would not be subject to the benchmarking regime and therefore could set rents at LHA rates or market rates as needed. But more importantly as the company would not be an entity which satisfies the landlord condition for the granting of secure tenancies the company would have a much higher degree of flexibility in terms of the type of tenancy it can grant and would be able to grant assured short hold tenancies in line with the private sector. A further additional benefit is that any property held in it and let as a non secure tenancy would not be subject to the Right to Buy (or Right to acquire).
- 3.13 The company could be used to establish a lettings agency, offering housing management and repair and maintenance services etc as described earlier in this report to support the encouragement of growth in the private rented sector. A fee would be charged for this service but this would be on a not for profit basis.
- 3.14 There are a number of governance issues to be considered when setting up such a company, including:
- Which statutory power to use
 - The level of ownership/control
 - The rules on state aid and bidding for council contracts

A little more detail on each of these issues is set out below. Each will need to be dealt with in detail when establishing the company so that the Council can be satisfied that the proposals are both lawful and will achieve the desired outcomes.

Statutory Power

- 3.15 The Council has various powers to establish companies. The different

powers are subject to their own limitations and so the precise power will need to be carefully identified in order to ensure the company is able to achieve all that the Council intends. For example, a company set up using “well-being powers” would not be able to trade but is expressly intended to cover social factors such as the promotion of good quality and affordable housing. As part of setting up a company, it will therefore be necessary to establish what it might wish to do in the future in order to select the most suitable power.

Ownership/Control

- 3.16 The principle purpose for establishing a company is to provide greater flexibility to the Council. It would therefore be a key delivery tool and as such the Council is likely to want to retain a high level of ownership and control. Council ownership/control will impose certain regulatory burdens on the company. For example, if the Council owns more than 25% of the company then its accounts must be incorporated into our own. Whilst the company is small that burden can be discharged by the Council on its behalf (subject to the rules on state aid below), but should the company need to be able to “stand on its own two feet” at some point in the future then such a burden could prove expensive. It will be possible in the future for the Council to reduce its level of ownership/control in order to remove such burdens and this will need to be provided for when the company is established.

State Aid and Council Contracts

- 3.17 Whilst the company is wholly owned by and trades almost exclusively with the Council, then it will not need to bid for Council contracts (under the Teckal exemption). However, it will have to follow EU rules for procuring any contracts that are over £173K in value. Given the likely size of the company, in the first instance this is unlikely to prove a problem but again it is a potential further regulatory burden
- 3.18 Whilst the Council can give contracts to the company under the Teckal exemption, it is limited as to the amount of support it can provide by way of accommodation, services etc. The Council will be able to supply the company with services and accommodation up to a maximum value of 200,000 Euros over 3 years. Again, whilst the company is small this is unlikely to prove a problem, although there are certain accounting requirements to be followed.

Overview and Scrutiny

- 3.19 There is a overview and scrutiny seminar taking place on 11th October 2013 to which all councillors are invited. The future purposes and governance arrangements will be explored in more detail. From this clear proposals can be developed. The outcome of the seminar will be reported verbally at the meeting.

4.00 RECOMMENDATIONS

- 4.01 That Cabinet notes the outcomes from the overview and scrutiny seminar on this issue.
- 4.02 For reasons of urgency, that the Head of Housing and the Head of Legal and Democratic Services be given delegated authority to establish a Housing Company in consultation with the Cabinet Member for Housing.

5.00 FINANCIAL IMPLICATIONS

- 5.01 There will be a small cost in establishing a housing company and in gaining the appropriate legal advice. This can be met from existing budgets.
- 5.02 Establishing a company will provide the potential to develop new revenue streams and to make best use of gifted capital assets in some locations. The company would purchase management services from the council initially, which would be met from existing resources. The company could have an agreement with the council to return any surpluses each year, based on company performance.

6.00 ANTI POVERTY IMPACT

- 6.01 The homes and services provided would be targeted towards those who are not eligible for council housing but who nevertheless need assistance in finding a home.

7.00 ENVIRONMENTAL IMPACT

- 7.01 These proposals could see additional long term empty properties brought back into use.

8.00 EQUALITIES IMPACT

- 8.01 The proposals could help more people to find a home that meets their needs.

9.00 PERSONNEL IMPLICATIONS

- 9.01 Existing staff with the appropriate skills will provide management services via a management agreement to the new company. A charge will be levied for any services provided to the company.

10.00 CONSULTATION REQUIRED

- 10.01 None.

11.00 CONSULTATION UNDERTAKEN

- 11.01 Independent legal advice has been sought, which this report uses.
- 11.02 The issue was reported to the Housing Overview and Scrutiny Committee on 23rd September 2013 and a workshop to which all councillors are invited will take place on 11th October 2013.

12.00 APPENDICES

- 12.01 None.

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985 BACKGROUND DOCUMENTS

None.

Contact Officer: Clare Budden
Telephone: 01352 703800
Email: clare.budden@flintshire.gov.uk