

<b>Subject:</b>	Empty Homes project	<b>Status:</b>	Public
<b>Report to:</b>	Audit & Accounts Committee	<b>Date:</b>	28 September 2022
<b>Report of:</b>	Chief Executive	<b>Lead member:</b>	Leader of the Council
<b>Key Decision:</b>	<input type="checkbox"/> Forward Plan <input type="checkbox"/>	<b>General Exception</b>	<input type="checkbox"/> <b>Special Urgency</b> <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required: No	<b>Attached:</b>	No
<b>Biodiversity Impact Assessment</b>	Required: No	<b>Attached:</b>	No
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## 1. RECOMMENDATION

**That the Committee considers the update on the Empty Homes project and the actions to manage the project in the future.**

## 2. EXECUTIVE SUMMARY

- Rossendale Borough Council is responsible for administering the Pennine Lancashire Empty Homes Scheme on behalf of itself and other local authorities
- Currently 105 properties remain in the scheme (originally 474 properties were on the scheme)
- Leases on the properties were signed for up to 10 years, with the last leases due for termination in December 2024
- 75% of properties are tenanted (which has reduced from 85% a year ago)
- Total net cost of the project to the end of Q1 in 2022/23 is £7.91m

## 3. BACKGROUND

- 3.1. On 14 November 2012 the council entered into a consortium agreement with the Homes & Communities Agency (HCA), to deliver a housing purchase and repair scheme. The scheme was to bring properties back into use across Pennine Lancashire. It was agreed with the HCA that the council would act as an accountable body for five East Lancashire councils: Rossendale, Pendle, Burnley, Blackburn and Hyndburn.
- 3.2. AAW were commissioned to act as the managing agent for the authorities. Owners of empty properties were assigned 5 or 10 year leases to AAW in return for guaranteed rent (70% of the LHA rates) and council tax. The 30% rent balance would then be retained by AAW to cover management costs and repairs. The nature of these leases has been fundamental to the costs incurred by the council for the duration of the project. Where the properties were not at the Decent Homes Standard, owners could either:
  - Commission AAW to undertake the necessary improvement works or
  - Undertake the works themselves and obtain re-imburement from AAW
- 3.3. January 2015 saw the demise of AAW following the council's refusal to provide financial assistance to the company. At the time of collapse, 357 properties remained on the scheme. The total HCA grant claimed by AAW at this point was circa £4.7m.

- 3.4. With the demise of AAW, the council became responsible for tenants. LCC undertook an internal audit to understand the failings of the scheme. The key failings confirmed in the LCC Internal Audit report were:
- No assessment was made of the risks and appropriate controls in taking up the funding and operating the programme
  - The former Chief Executive did not obtain indemnities from other Pennine Lancashire councils
  - Normal controls, expected procedures and statutory requirements were over-ridden
  - Insufficient involvement of the council's legal and financial statutory officers
- 3.5. There was inadequate supervision of a single member of staff who was effectively made responsible for the management of the entire programme, and the scope to act in whatever way they felt was appropriate. Officers involved in working with AAW failed to inform members in a structured way on the operation of the programme. There was a failure to sufficiently involve the council's statutory officers in the decision-making process. In parallel, a police investigation commenced to explore evidence of illegality on AAW's behalf. Further details on the background to the project and progress over the last two and a half years were provided to the Audit & Accounts Committee in July 2020 and July 2021.

#### **4. THE LAST YEAR**

- 4.1. Managing the project continues to be complex and challenging. 77% of the properties have now been removed from the scheme. No leases were due for termination in 2021 and four are due to terminate by December 2022. There has therefore only been a small change in the number of properties remaining on the project in the last year.
- 4.2. 75% of the 105 remaining properties are currently tenanted, providing homes for local people in East Lancashire. Good progress has been maintained in putting properties into good condition to let (or to repair current tenant damage). The scale of repairs or refurbishment in the last year has been high as six properties have been extensively renovated (with a further eight properties underway). The overall cost of repair and refurbishment illustrates the scale of repair works which are on-going through the life of the project. The renovation of these remaining eight properties is anticipated to be the last large-scale renovation work required under the project.
- 4.3. Leases on 5 properties have expired but remain in the scheme. The impact of Covid has meant the council has not been able to obtain vacant possession for these properties despite significant negotiation with sitting tenants. The council is in negotiation through Calico for owners to accept sitting tenants for the properties. The lease expiry for the next properties is in December 2022 when leases on 2 properties will come to an end.
- 4.4. As the last leases have just over two years remaining on their term – and some properties have less – when a property becomes vacant/void we are discussing with the property owner if they are prepared to have the property handed back early and the lease terminated. Active discussion is taking place on 6-9 properties to see if the lease can be terminated early, reducing the liability and risk to the council. This is impacting on the percentage of properties tenanted.
- 4.5. Calico continue to act as managing agents for the majority of the properties. The remainder are managed by a letting agent.
- 4.6. During the last twelve months there has been significant on-going legal activity responding to two legal claims for repairs and other related housing costs. A claim relating to seven properties has been recently settled. A further significant claim relating to fifty properties is on-going.

4.7. The Cabinet have received quarterly updates on the progress of the project. Regular project team meetings take place and the Chief Executive remains as the Project Sponsor to oversee the project. The council is seeking to recruit a Housing Programme Manager to take over the management of the project for the remainder of its term.

## 5. FINANCE

5.1. As at the 31 March 2022, the net costs for 2021/22 were £535,450. Made up of £371k revenue costs and £164k capital expenditure. The total net cost of the project to the end of Quarter 1 (2022/23) was £7.91m. Whilst the council has provided for owner loans there are land charges on the properties, therefore the council will ultimately seek to recover the £1.02m.

5.2. The table, below, outlines the annual costs of the project over the first eight financial years:

Empty Homes Project	Report as at 31/3/22		
	Revenue £000	Capital £000	Total £000
2014/15 net operating cost	278	0	278
2015/16 net operating cost	896	312	1,208
2016/17 net operating cost	1,306	2,159	3,465
2017/18 net operating cost	461	27	488
2018/19 net operating cost	83	71	154
2019/20 net operating cost	613	110	723
2020/21 net operating cost	335	550	885
2021/22 net operating cost	371	164	535
<b>TOTAL</b>	<b>£4,343</b>	<b>£3,393</b>	<b>£7,736</b>
HCA grant		-2,891	
Repaid HCA grant on returned properties		1,579	
Net HCA grant			-1,312
Contributions from other councils			-330
Provision set aside for doubtful loans			1,023
Further works on returned properties			413
<b>Net cost to RBC</b>			<b>£7,530</b>

5.3. The 2021/22 costs are outlined in more detail, below:

<b>Financial Summary at the end of 2021/22</b>			
<b>Total Approved Budget</b>	<b>Revenue £300,000</b>	<b>Capital £675,000</b>	
	<b>Actuals</b>	<b>Actuals</b>	<b>Total</b>
Building Renovation Costs <sup>1</sup>		£163,846	£163,846
Salary - Project Support Officer	£14,440		£14,440
General Repairs <sup>2</sup>	£5,384		£5,384
Utilities	£4,094		£4,094
Leaseholder Payment	£140,231		£140,231
Council Tax	£187,476		£187,476
Professional Fees <sup>3</sup>	£47,682		£47,682
Door Security	£5,168		£5,168
Settlement Payments to Owners <sup>4</sup>	£28,298		£28,298
Legal Fees	£17,200		£17,200
Provision for Bad Debt	£0		£0
Repayment of Principal	£49,655		£49,655
Miscellaneous Expenses	£694		£694
Other Costs Recovered	-£39,998		-£39,998
Rental income <sup>5</sup>	-£88,721		-£88,721
<b>Total</b>	<b>£371,604</b>	<b>£163,846</b>	<b>£535,450</b>

<sup>1</sup> Capital repair costs associated with either significant end of lease (or current renovation) property improvements to ensure they meet the appropriate standard

<sup>2</sup> Day to day repairs including tenant damage (beyond wear and tear)

<sup>3</sup> Primarily building surveyor costs

<sup>4</sup> Legal settlement with owners, primarily back rent and minor repairs

<sup>5</sup> This does not include rental income received by Calico for the properties they manage, as part of the agreement is to cover their tenant management costs

5.4. Properties are to be returned to owners at a liveable standard and therefore both renovation/repair costs (£163k) and settlement payments to owners (£28k), have been incurred to enable the properties to be returned to owners in an appropriate condition.

5.5. In August 2022 the council increased its 2022/23 project budget to enable it to fund the outcome from an on-going legal case. This was approved by Full Council. Where possible, for larger improvement works, the council will continue to capitalise cost to reduce the impact on the council's revenue budget. The MTFS is reviewed annually and this review takes into account the projected future costs of the project, reviewed each year.

## 6. LEGAL

6.1. The legal issues including the property leases are explored in the report. The council has a legal agreement with Calico Homes to manage 87 properties in the project. The council has sought and received assurance from Calico that the agreed end of lease process is being followed to ensure properties are being returned to owners as swiftly as possible.

6.2. The council is managing a live legal claim relating to 50 properties pursuing property costs and this is on-going. If the court finds in favour of the claimant the council carries the financial risk, the scale of which is unknown until settlement of the case.

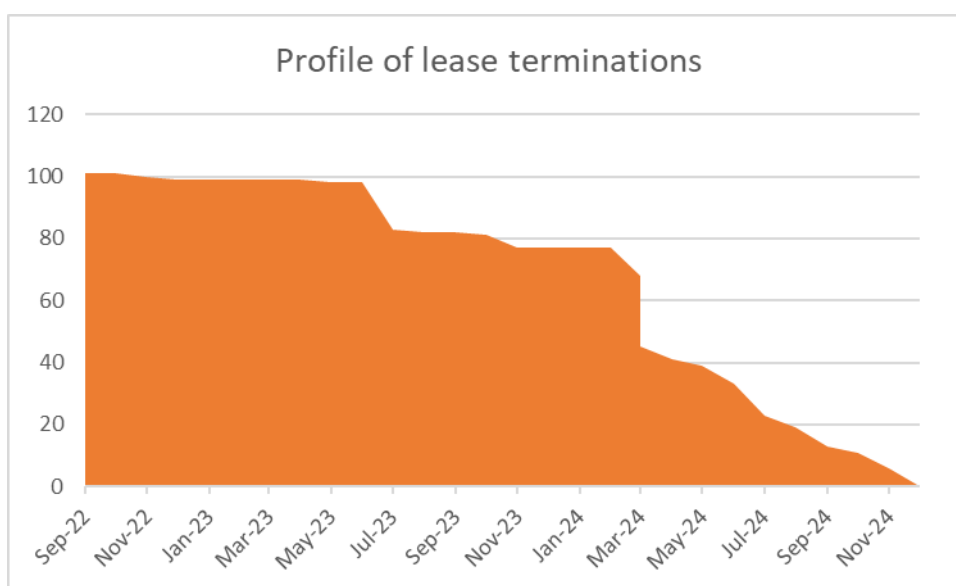
## 7. THE FORTHCOMING YEAR

7.1. The council continues to keep the project under close scrutiny. The following key issues have been identified.

### 7.2. Managing the implications of the leases

Managing the project has been extremely challenging. The structure of the legal agreement in relation to the leases has placed the vast majority of the financial liability on the council. The nature of these leases has been fundamental to the costs incurred by the council for the duration of the project. Due to the nature of the leases it is not possible to significantly reduce the likely cost of future repairs and end of lease costs.

7.3. The profile of the termination of the leases is summarised in the graph, below:



### 7.4. Management and control of the project

Officers have aimed to manage the project throughout to the best of their ability. Issues have often emerged when works have not previously been undertaken to properties during the AAW management of the scheme. The scale of these works and the nature of the leases have made managing the project extremely challenging. There has been on-going tight control of the project. Officers continue to actively contract manage Calico and the other letting agent, challenge contractors cost estimates, ensure works are completed to an appropriate standard and properties proactively returned to owners at lease expiry. We are actively looking to recruit a Housing Programme Manager to take over the management of the project. A new project support officer was recruited in 2021, which is helping the project team's capacity. The project reports to the council's Programme Board and quarterly updates are provided to the Cabinet.

### 7.5. Handling on-going legal disputes with owners

The council aims to minimise legal claims in relation to repairs and other property related costs but the condition of the leases are extremely restrictive for the council. Claims are actively managed and challenged but these are likely to have an on-going financial impact on the project and are being factored into the anticipated future cost projections (although estimating actual cost is very difficult).

## 7.6. Risk

The project's risk register is regularly reviewed. The project carries a significant financial, legal and reputational risk with the on-going legal case. Mitigating actions are put in place for all the project's risks and these are kept under regular review.

## 7.7. Transparency

The project reports to the council's Programme Board, as outlined earlier, so robust monitoring can take place, particularly in relation to the financial progress of the project. Regular updates are provided for the Cabinet and this is the third annual update provided for the Audit & Accounts Committee, to enable information to be published in the public domain.

## 8. **CONCLUSIONS**

8.1. Since the start of the project in 2014/15 when the council became directly responsible for the management of the project, the number of properties in the scheme has reduced from 357 to 105. This has significantly reduced the council's liability on the project for the remainder of the leases – until December 2024. The net cost of the project to date has been £7.91m.

8.2. The nature of the leases has been fundamental to the costs incurred by the council for the duration of the project. The structure of the leases continue to significantly limit the council's ability to reduce costs. The council is actively seeking to mitigate future cost through:

- Active pursuit of rent arrears
- Removal of properties from the scheme at the earliest opportunity
- Ensure leases are terminated at end date and properties returned to owners promptly
- Legal claims are actively managed and challenged
- Ensure repair costs are value for money
- Owner loans are repaid

<b>Background Papers</b>	
<b>Document</b>	<b>Place of Inspection</b>
Management response to the Lancashire County Council Internal Audit report: "Bringing Empty Homes into Use"  (inc the LCC Internal Audit report)  Council, 9 December 2015	<a href="https://www.rossendale.gov.uk/meetings/meeting/874/council">https://www.rossendale.gov.uk/meetings/meeting/874/council</a>
Empty Homes project  Audit & Accounts Committee, 28 July 2020	<a href="https://www.rossendale.gov.uk/meetings/meeting/1208/audit_and_accounts_committee">https://www.rossendale.gov.uk/meetings/meeting/1208/audit_and_accounts_committee</a>
Empty Homes project  Audit & Accounts Committee, 28 July 2021	<a href="https://www.rossendale.gov.uk/meetings/meeting/1270/audit_and_accounts_committee">https://www.rossendale.gov.uk/meetings/meeting/1270/audit_and_accounts_committee</a>