

<b>Subject:</b>	Empty Homes Project	<b>Status:</b>	For Publication
<b>Report to:</b>	Audit & Accounts Committee	<b>Date:</b>	29 November 2023
<b>Report of:</b>	Chief Finance Officer	<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:	Yes/No	Attached: Yes/No
<b>Biodiversity Impact Assessment:</b>	Required:	Yes/No	Attached: Yes/No
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## 1. RECOMMENDATION

- 1.1 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 55 (105 in September 2022) 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 vast majority of leases due for termination in December 2024
- 85% (47) of current properties are tenanted with 8 void.
- Of the 55 left on the scheme, we expect a further 14 to go back to the owner by the end of this year. This will leave 41 on the scheme.

## 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 Ltd 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 In January 2015, AAW ceased trading. At the time 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. The investigation was closed in June 2021 after police found insufficient evidence to pursue a prosecution. Further details on the background to the project and progress over the last three and a half years were provided to the Audit & Accounts Committee in July 2020, July 2021 and September 2022.

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

- 4.1. Managing the project continues to be complex and challenging. Having said that 88% of the properties have now been removed from the scheme. Of the 55 that remain, a further 14 are due back by the end of the year. As properties become empty we look to negotiate a return to the owners by mutual consent. Between September 2022 and October 2023, 50 properties have exited the scheme.
- 4.2. 85% of the 55 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 due to the extensive renovation of the 8 properties referred to in the September 2022 update report. However as the push to return properties speeds up, in order to bring the properties up to the required standard to return them to their owners we are encountering significant end of lease repairs. The overall cost of repair and refurbishment illustrates the scale of repair works which are on-going through the life of the project.
- 4.3. As more leases come to an end, in some cases the lease 'vacant possession clause' is proving problematic. The Council continues to negotiate with owners to accept sitting tenants at lease end, however they do not always agree. The Council has sought legal advice and based on the advice we are having to individually assess each property, to decide what action we can take. In some instances we may need to hand them back with the sitting tenant. Unfortunately, some local authorities have taken the decision that where houses are on the Empty Homes scheme they will not give the tenant homeless status at the end of the lease. They are instead relying on possession proceedings to be commenced first. We are working closely with those authorities and with owners to reach mutual agreements.
- 4.4. As the remaining leases have approximately 13 months remaining on their term – with some properties having 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. We are receiving a mixed reaction from owners, with some adamant that their property remains on the scheme until the lease end date. Due to the length of time remaining on the lease these properties are difficult to re-let; this is impacting on the percentage of properties tenanted. In order to mitigate this we are working with our housing options team, with some of the properties now being occupied by Afghan refugees and homeless families.
- 4.5. Calico continue to act as managing agents for the majority of the properties. The remainder are managed by a letting agent although the empty homes team carry out the tenancy

management on these properties along with the properties licenced by the housing options team.

- 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. Both claims have now been settled. The Council and the claimants have signed a confidentiality agreement.
- 4.7. The Cabinet have received quarterly updates on the progress of the project. Regular project team meetings take place and the Chief Finance Officer is the Project Sponsor to oversee the project. In early 2023 the Council were successful in recruiting an Empty Homes Project Manager, who has significant housing experience, to take over the management of the project for the remainder of its term. This is proving invaluable as we reach the latter stages of the project.

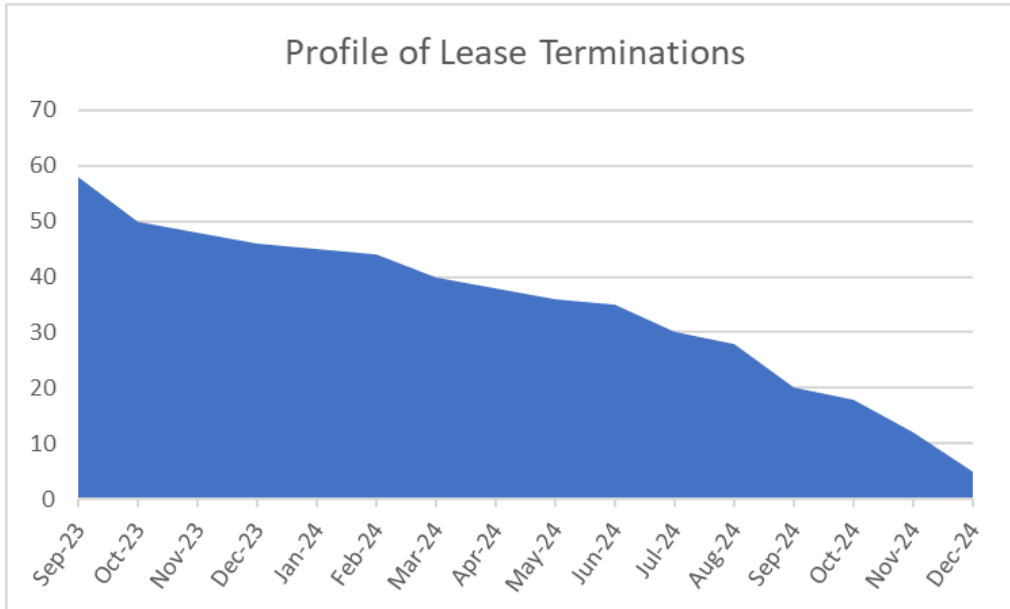
**5. THE FORTHCOMING YEAR**

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

**5.2. 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.

5.3. The scheduled lease end dates are profiled in the table below, however as stated above officers are seeking to return properties early where possible:



**5.4. 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. In early 2023 we successfully recruited an Empty Homes Project Manager, who has extensive housing experience, to take over the management of the project. Along with the project support officer he continues to actively contract manage Calico and the other letting agents, challenge contractors cost

estimates, ensure works are completed to an appropriate standard, seek opportunities to return properties early if they become void and ensure they are returned to owners at lease expiry. The project reports to the council's Programme Board and quarterly updates are provided to the Cabinet.

#### 5.5. 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).

#### 5.6. 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 fourth annual update provided for the Audit & Accounts Committee, to enable information to be published in the public domain.

### 6. **RISK**

6.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- Future claims – the Council has employed a dedicated project manager with extensive housing experience to mitigate this risk
- Vacant possession at the end of the lease – the Council is following procedure and has sought legal advice where issues have arisen
- Budget Overspend – the project is actively monitored and managed. The project manager reports to Programme Board on a quarterly basis and Audit and accounts committee annually.

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

### 7. **FINANCE**

7.1. All financial considerations are contained within Part 2 of this report.

### 8. **LEGAL**

8.1 The legal implications are covered in the body of the report. Officers will continue to closely monitor the scheme and instigate and defend proceedings as necessary.

### 9. **CONCLUSIONS**

9.1. 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 474 to 55. This has significantly reduced the council's liability on the project for the remainder of the leases – until December 2024.

9.2. 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

Background Papers	
Document	Place of Inspection
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>
Empty Homes project Audit & Accounts Committee, 28 September 2022	<a href="#">Agendas, reports and minutes   Rossendale Borough Council</a>