

Report to:	COUNCIL
Relevant Officer:	Alan Cavill, Director of Place
Relevant Cabinet Member:	Councillor Gillian Campbell, Cabinet Member for Housing, Public Safety and Enforcement and Councillor Blackburn, Leader of the Council
Date of Meeting:	21 st January 2015

CREATION OF A WHOLLY OWNED HOUSING REGENERATION COMPANY

1.0 Purpose of the report:

1.1 To consider the recommendation of the Executive from its meeting on 14 December 2014 relating to the establishment of a wholly Council owned housing regeneration company to lead housing market change within Blackpool and source investment to facilitate local housing market change.

2.0 Recommendation(s):

- 2.1 To authorise the Chief Executive, following consultation with the Director of Governance and Regulatory Services to take the necessary steps to form a wholly owned company of the Council, including:
- To incorporate the company under the Companies Act 2006, as a private company limited by shares.
 - To appoint Directors to serve on the Board of the company and constitute a Shareholder's Panel, in line with the Council's Governance Code of Practice.
 - To identify the need and then carry out any staff transfers as appropriate.
 - To prepare articles of association for the company setting out its objectives and governance arrangements.
- 2.2 To agree that the Director of Place be authorised, following consultation with the Director of Resources, to develop financial options to support the furtherance of the company's objectives and to report back to the Executive in due course.

3.0 Reasons for recommendation(s):

3.1 Housing market failure within Blackpool is considered to have significantly adverse impacts on the health and wellbeing of residents and on the overall economic vitality of the town. The establishment of a wholly owned housing company will enable a more pro-active approach to be taken to help secure a stronger housing market that meets Blackpool residents housing needs.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No, but this is a new proposal as the Council has not previously agreed for this to be undertaken through a wholly owned company (outside of the Council) and therefore Council approval is required.

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:
Not to proceed with the proposed company.

4.0 Council Priority:

4.1 The relevant Council Priorities are:

- Improve health and well-being especially for the most disadvantaged
- Attract sustainable investment and create quality jobs
- Improve housing standards and the environment we live in by using housing investment to create stable communities
- Create safer communities and reduce crime and anti-social behaviour

5.0 Background Information

5.1 The Executive at its meeting on 14 December 2014 considered the proposal for the establishment of a wholly Council owned housing regeneration company to address the fact that private rented sector has an increasingly important role in meeting Blackpool's housing needs.

5.2 The recently announced Growth Deal for Lancashire included a section on Blackpool. Within this section provision was made for Blackpool Council to develop a proposal for housing market intervention and possibly attract funding to assist. In order to do this the Council must create a company along with an appropriate and deliverable business case that satisfies analysis by the Treasury. This will only be achieved through a comprehensive set of interventions including and initiatives including working with existing Landlords to improve stock, developing new higher quality housing and intervening in market that is providing poor quality accommodation. Whilst the Council can continue to pursue the first two of these without the establishment of a company that can operate outside of the direct constraints of the Local Authority and its provision of "Council" housing the Council will not be able to move this forward; hence the reason for the recommendation to set up a Special Purpose Vehicle - a Housing Company.

5.5 The decision notice from the Executive meeting is attached at Appendix 6(a).

Does the information submitted include any exempt information?

No

List of Appendices:

Appendix 6(a) – Executive Decision Notice EX/56

6.0 Legal considerations:

6.1 The Council may use its General Power of Competence under Section 1 of the 2011 Act to acquire housing for rent in the General Fund, either directly or through an SPV. Although there is a requirement under section 4(2) of the 2011 Act that if the exercise of the Section 1 power is for a "commercial purpose" then the Council must use a company to do so.

6.2 On the face of it the acquisition of House in Multiple Occupation and continuing to let that housing at market rents however would be pursuing a "commercial purpose". Whilst there is no legal authority yet on what a "commercial purpose" is taken by the Court to mean it is likely that acquisitions would be deemed to be for a "commercial purpose" in which case the Council would need to acquire these properties through a special purpose company.

6.3 Consideration has been given to the most appropriate form of special purpose company for the Council to pursue. An analysis of the options has been set out in the report and it is recommended the most appropriate vehicle is to establish a wholly owned local authority company limited by shares of which the Council has 100% ownership. This has the advantage of allowing the Council to retain full control of the company and its strategic direction.

6.4 The Council has clear powers under sections 24 and 25 of the Local Government Act 1988 to provide financial assistance (which includes the making of a loan) to the Housing Company.

7.0 Human Resources considerations:

7.1 It is recommended that the transfer of any staff to the Company be considered and determined by the Chief Executive through normal procedures.

7.2 Consultation will take place with Trade Unions and any affected employees

8.0 Equalities considerations:

8.1 The Council has a wide ranging statutory responsibility under section 149 of the Equality Act 2010, known as the “Public Sector Duty” to have “due regard” in decision making to the need to:

- Eliminate discrimination, harassment, victimisation and other prohibited conduct
- Advance equality of opportunity
- Foster good relations between different (defined) groups

8.2 The recommendations in the report have been examined to understand the scope of possible impacts on people because of the protected characteristics of:

- Age
- Disability
- Gender Reassignment
- Race
- Religion or belief
- Sex
- Sexual Orientation
- Pregnancy and Maternity

8.3 The creation of a wholly owned Company to deliver Housing regeneration as set out in the report would not, in itself, have an adverse impact on these equality characteristics. Both positive and negative impacts would be possible, dependent on the approach the company takes to these policy issues once established.

8.4 It can also be concluded at this stage, that the development of better quality housing in the town does have potential to positively impact on equality of opportunity and community cohesion through the creation of more stable communities in the inner wards.

- 8.5 It will be important to secure the ongoing commitment of the company to the Council's equality ethos and to continue to deliver the specific "due regard" requirement under the Equality Act.
- 8.6 To guarantee this, it is recommended specific clauses are included in the company's articles of association. These could cover both the requirement to have due regard in decision making, advance – where appropriate the Council's Equality Objectives and take account of equality issues in the composition of the Board.
- 8.7 Since the Council is not able to delegate its ultimate responsibility for the Public Equality duty, the client oversight functions will need to take reasonable steps to ensure this approach is implemented.

9.0 Financial considerations:

- 9.1 As outlined in the recommendations, the Director of Place will after consultation with the Director of Resources, develop the financial options available to support the furtherance of the objectives set out above and report back to a future Executive meeting.
- 9.2 As the company will be wholly owned by the Council and will provide the substantial part of its services to the Council, the Council can benefit from the Teckal Exemption, which enables the Council to procure the services of the local authority controlled company directly without the need for carrying out a procurement process. If the company is to have any private ownership/ interest in the future, the Council will be required to carry out a procurement exercise in accordance with the Contract Procedure Rules depending on the role of the private partner and the purposes of the joint venture.

10.0 Risk management considerations:

10.1 Housing needs change and the demand for properties of this nature change.

To a degree this is what the Council is seeking to achieve, however the proposal is to develop a portfolio of higher quality stock which will be much more resilient to market change than property of a lesser quality. Further mitigation is however possible by broadening the target occupier group, as well as the option to sell property if required.

10.2 Redevelopment costs consistently exceed anticipated costs.

Robust financial monitoring and contract management systems will be established and monitored by the company board and company senior management team.

Acquisitions will start slowly to ensure cost assumptions are deliverable before large numbers of properties are acquired. Major cost variations in refurbishment projects tend to become apparent during the early stripping out phases of construction will be enable opportunities to reduce costs elsewhere through scope of works if absolutely necessary to avoid significant cost over runs.

10.3 Anticipated rental returns are not achieved.

Rent targets are based on Local Housing Allowance rates so are more likely to be affordable by tenants claiming benefits. Clients referred by Housing Options will in most cases be entitled to have their rent paid direct to the housing company reducing the risk of arrears. The housing provided will also be higher quality than many other choices available meaning that the company is more able to attract tenants who are able to pay and less likely to fall into arrears. A robust rental income monitoring system will be established by the company to identify and respond to instances of rent arrears early in order to avoid escalation. Risk assessments will also be made of potential tenants before granting a tenancy to reduce risk of anti-social behaviour, arrears and damage.

The company is expected to establish a market position of being a landlord of choice amongst tenants. This will enable lists of potential tenants to be developed to minimise void periods.

10.4 Repair costs are higher than expected.

Property will mostly be subjected to extensive refurbishment. This will ensure that the stock is at a good condition and future repair costs are minimized. A proactive programme of routine maintenance and future major repairs has been allowed for within the business model.

11.0 Ethical considerations:

11.1 The Council is developing an ethical policy to systematically approach ethical issues as it develops policies and during operational decision making processes. This is based on the Council's conviction all human beings have inherent needs, (which clearly include housing) and that local government has a moral obligation to pursue policies around fairness and social justice.

11.2 It is likely that the framework will aim to ensure the Council's policies and day to day decision-making are built on ethically sound principles, promote social justice and are focused on our core priorities .It is therefore appropriate that these concerns are built into the constituting articles of the new company.

12.0 Internal/ External Consultation undertaken:

12.1 Consultation has been undertaken internally within the Council, including, finance, legal and Human Resources advice. Expert legal advice has also been sought from Trowers Hamilns.

12.2 At the time of writing the report, arrangements have been made to consult with Trade Unions and staff who may be TUPE'd by these proposals.

13.0 Background papers:

13.1 Health and Wellbeing Board – Market Rental Report