

## Individual cabinet member decision

### Long Term Lease of council housing dwelling to deliver housing with support and care

#### Report of Chief Officer – Housing and Property

PURPOSE OF REPORT			
The report seeks approval to dispose of a council dwelling in Morecambe, on a long lease, to support the development of a specialised supported housing unit.			
<b>Key Decision</b>	<b>X</b>	<b>Non-Key Decision</b>	<b>Referral from Cabinet Member</b>
<b>Date of notice of forthcoming key decision</b>	12.6.23		
<b>This report is public</b>			

#### RECOMMENDATIONS:

- (1) That approval be given for the Council Housing Service to lease a dwelling in Morecambe, by way of a long-term lease arrangement, to Empower Housing, for the creation of a specialised supported housing unit for the duration of the lease. The terms and conditions of the lease to be negotiated and agreed upon with Empower by the Chief Officer - Housing and Property, in consultation with Legal Services.

#### 1.0 Background

- 1.1 The Housing Service were approached by Lancashire County Council in late 2020, having themselves been approached by two joint tenants living at the address in question: a five bedroomed house within Lancaster City Council's housing stock. Both tenants had significant mobility and social care needs.
- 1.2 Due to family circumstance the tenants' shared lives carers had to move out, leaving the tenants significantly under occupying this large property. In 2021, sadly, one of the tenants passed away leaving the current sole tenant occupying the property.
- 1.3 As a sole tenant of a five bedroomed house the tenant is suffering financial hardship due to the current unaffordability of this situation. The tenant is currently in receipt of a discretionary housing payment (DHP) from Lancaster

City Council to provide financial support, but this temporary payment is due to cease.

- 1.4 The tenant receives twenty-four-hour care delivered by a private provider and funded by Lancashire County Council. A long-term commitment exists here: Lancashire County Council are currently into year 3 of a 7 years + 3 contract with the service provider. The care provision is not financially sustainable with only one tenant living at the address.
- 1.5 The property is currently adapted significantly to meet the needs of the tenant. These adaptations include two-bedroom extension with wet room; ramp access; rise and fall bath; ceiling track hoists; widened doorways.

## **2.0 Options Explored**

- 2.1 Since the initial approach in 2020 the Housing Team, working closely with Lancashire County Council, and Legal Services, and having sought external specialist legal advice, have explored all available options to support the current tenant to remain in their home.
- 2.2 With the agreement of the current tenant an arrangement to allow for additional tenants to occupy the home is being sought: to make it affordable for the current tenant, to provide a mutually supportive environment with sustainable on-site care, and to support the County Council in their ambitions to deliver housing with care.
- 2.3 As a Local Authority housing provider the housing service provides secure tenancies to all tenants and is unable to provide Assured Shorthold Tenancies which would allow for multiple tenancies under one roof
- 2.4 Lancaster City Council have no other properties within the current housing stock which would meet the needs of the tenant without significant and costly adaptation work, and which would also provide the required space for carers.
- 2.5 In discussion with the lead commissioner and housing specialist within Adult Social Care, a solution involving the development of the property into a four-person supported accommodation unit, with the current tenant remaining as one of the supported tenants, has been developed.
- 2.6 County have proposed an arrangement with Empower Housing Association, specialists in providing housing for adults with disabilities enabling them to live within their community independently. As has been made clear in discussion with the Lancashire County Council there is currently no other viable alternative to support the housing need of this tenant.
- 2.7 Advice has been received from Trowers and Hamlins LLP Solicitors outlining the options available to the council with respect of the use of this property for this purpose. Legal Services have been involved in the development of this proposal, including the application of this advice.
- 2.8 A valuation has been provided by Savills Housing Consultancy to establish an appropriate rent for any lease agreement. The disposal will be at market value.

## **3.0 The Proposal**

- 3.1 It is proposed that Lancaster City Council lease the dwelling to Empower

Housing Association and that Empower Housing sublet the property to four separate tenants as proposed by the Adult Social Care team. Adult Social Care will continue to commission the required care and support for the tenants.

3.2 The lease will be for twenty years, with appropriate break clauses and review periods negotiated and delegated to the Chief Officer - Housing and Property for decision.

#### 4.0 Financial considerations

4.1 As per the valuation provided by Savills the council is seeking a monthly rent of £950 per calendar month from Empower Housing Association, to deliver an annual income of £11,400 with regular rent reviews (upward only). Were the current tenant to remain in situ as the sole secure tenant the annual income to the council would be £4794.24.

4.2 Works required to create the supported housing unit as per Empower Housing Associations requirements would total circa £24,500 and are budgeted for within current fire precaution works budgets.

4.3 In addition, a three-month rent-free period is proposed at the beginning of the lease agreement with Empower to allow completion of any outstanding works, embedding of new arrangement etc.

	Current tenant rental income	Under proposed lease agreement
Annual 2023/24	£4,794.24	£11,400
Over twenty years	£117,611.53 <sup>1</sup>	£279,594 <sup>2</sup>
Initial costs to create supported accommodation	£24,500	
Total <b>additional</b> income to the council under lease agreement <sup>3</sup>	£134,632.47	

Under the proposed lease agreement Empower would take responsibility for all internal repairs and maintenance to the property. Lancaster City Council would retain responsibility for all external planned maintenance works and fire safety measures for the duration of the lease agreement. Other compliance issues (gas and electrical testing for example) will be the responsibility of Empower.

#### 5.0 Details of Consultation

5.1 Consultation has been carried out with the tenant detailing the benefits and consequences of this proposal, including the loss of security of tenure which

<sup>1</sup> This assumes increases at CPI of 2% each year, plus an additional uplift of 1.0% in 2024/25

<sup>2</sup> This assumes annual uplift at CPI of 2% each year.

<sup>3</sup> Rental income under lease agreement, less initial 3 month rent free period, less initial costs to create supported accommodation unit vs current tenant rental income over twenty years.

would result. The tenant and their family are supportive and in favour of the approach being taken.

- 5.2 As the tenant has security of tenure with the Council their decision to surrender this is critical to the progress of this arrangement. Should the tenant refuse to accept surrender of the tenancy the council cannot pursue the lease of the dwelling in the way set out in this report. Lancaster City Council are paying for the tenant to receive independent legal advice to assist with their decision.
- 5.3 Should the tenant decide not to surrender their tenancy further options will be explored in discussion with the tenant and other parties involved.
- 5.4 The ward Councillors for Westgate have also been consulted and invited to comment and are satisfied with the clarifications and additional explanations provided.

## 6.0 Options and Options Analysis (including risk assessment)

	<b>Option 1:</b> Lease the dwelling to Empower HA as outlined above	<b>Option 2:</b> Retain the dwelling with housing stock
Advantages	Provide specialised, affordable supported housing for the current tenant, and deliver three additional supported housing tenancies to support the objective of Lancashire County Council's Adult Social Care team. As an additional benefit, an increased income to the City Council's Housing Revenue Account	Should an alternative arrangement be identified for the tenant the dwelling could be released into housing stock for reletting
Disadvantages	The dwelling is removed from the Council's housing stock for the duration of the lease	The current arrangement is unaffordable for the current tenant, but no alternative housing solution has been identified by Adult Social Care. The tenant retains the tenancy until such time as they terminate, transfer, surrender it or we take tenancy action linked to arrears which could build up.
Risk	As with all long-term leases the actions we can take to seek possession in the event of breach are limited.  The risk that the rental income in this report is not realised exists in as much as either side may decide to terminate the agreement upon review.	The tenant remains in an unaffordable situation and accrues debt/rent arrears

## **7.0 Officer Preferred Option (and comments)**

The preferred option is Option 1.

## **8.0 Conclusion**

- 8.1 The solution here is being proposed to address the housing and support needs of a vulnerable tenant with multiple complex needs. The tenant finds themselves as the sole tenant of this dwelling due to a series of challenging life events.
- 8.2 In addition, with this proposal the City Council is able to support Lancashire County Council in their ambition (as set out on their Housing With Care Strategy) to develop a range of high quality Housing with Care and Support schemes by 2025 for both adults and younger adults with disabilities.
- 8.3 The Council, as a social housing provider operating a Housing Revenue Account, are not able to directly issue the Assured Shorthold Tenancy required for a supported housing unit containing multiple tenancies. The Council have the ability to issue secure tenancies only: a secure tenancy with multiple tenants on a single agreement would not provide the required flexibility.
- 8.4 The decision to surrender their tenancy is the decision of the tenant (with appropriate legal advice, and advice from their support network). The Council will not pursue this route without the tenant clearly expressing their wish to surrender their Council tenancy. The loss of security that this would involve is made clear in the consultation documents.

### **RELATIONSHIP TO POLICY FRAMEWORK**

This proposal supports Lancashire County Council's Homes Strategy, Adult Social Care – Housing with Care and Support

### **CONCLUSION OF IMPACT ASSESSMENT**

**(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing)**

The possibility exists for reduced security of tenure for the current tenant due to the required surrender of secure tenancy and take up of Assured Shorthold Tenancy. The tenant's rights are being protected by the City Council paying for independent legal advice, to support them to make the decision to proceed with the surrender.

The proposal outlined here is driven by the City Council's desire to support the tenant's housing need, on the understanding that the current arrangement is untenable. The creation of a four-person supported unit is a practical way of achieving this.

### **LEGAL IMPLICATIONS**

The current tenant is a secure tenant in accordance with the Housing Act 1985 and is protected by the security of tenure that this Act grants. To enable the Council to grant a lease to a provider of supportive care (so that they may in turn grant a tenancy to the tenant)

the tenant will need to surrender their secure tenancy. Once that secure tenancy has been surrendered, the Council has the power to dispose of the property to a third party by virtue of s123 (1) Local Government Act 1972 without requiring Secretary of State approval. Such a disposal places a duty under section 123(2) to obtain the best consideration that can reasonably be obtained and the Council is not obliged to follow any certain process in order to do this. Legal Services understands that the Council will obtain third party advice to ascertain what the appropriate market value rent will be for this disposal.

Legal Services has already been involved with regard to identifying the appropriate agreements and timescales for the same to enable the Council to carry out the disposal and will continue to advise further.

#### **FINANCIAL IMPLICATIONS**

The additional rental income generated over 20 years would be in the region of £160,000, assuming annual increases in line with CPI at 2.0%. As the internal repairs and maintenance of the property would become the responsibility of the lessee, this would reduce the Council's financial cost over the term of the lease, further improving the beneficial financial impact.

#### **OTHER RESOURCE IMPLICATIONS**

##### **Human Resources:**

There are no Human Resource implications arising from this report.

##### **Information Services:**

There are no Information Services implications arising from this report.

##### **Property:**

Property implications are outlined within the report. These relate directly to the Council Housing service.

##### **Open Spaces:**

There are no Open Spaces implications arising from this report.

#### **SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments to add

#### **MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments to add

#### **BACKGROUND PAPERS**

None – independent legal advice and external red book valuation exist, but are not shared here

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