

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: The Leader and Cabinet

8 Sept 2005

AUTHOR/S: Director of Housing and Environmental Services

EQUITY SHARE FOR THE ELDERLY LEASES

Purpose

1. To request the Leader and Cabinet to agree changes to the leases under the Council's Equity Share for the Elderly scheme.

Effect on Corporate Objectives

2. Quality, Accessible Services	The Equity Share for the Elderly Scheme offers the opportunity for applicants to access affordable accommodation.
Village Life	A range of property tenures helps to provide balanced sustainable communities
Sustainability	
Partnership	

Background

3. A report on capital receipts pooling was presented to the Leader and Cabinet on 21 July 2005. This report examined the financial impact on the housing capital programme should the capital receipts from equity share sales need to be pooled.
4. The Housing for Older People Advisory Group (HOPAG) are currently considering the future shape of the sheltered housing services including those provided under the Equity Share Scheme for the Elderly.
5. The Housing Portfolio Holder at the meeting held on 2 August 2005 supported the recommendation that Cabinet authorise the redrafting of Equity Share for the Elderly leases so as to give the Council the option to repurchase, and clarify the reference to a resident Scheme Manager to allow flexibility in consideration of options for future delivery of the service.

Considerations

6. The existing equity share leases contain a commitment to the effect that whenever a leaseholder wishes to dispose of their share of the property the Authority will repurchase it. Clearly, if pooling were to be unavoidable for equity share sale receipts, the Authority would be left with insufficient funds to meet the financial liability implied by the terms of these existing leases.
7. The current legal position, is that 'In order to prevent further financial liability being incurred, future equity share leases may need to be redrafted in such a way that the Authority is given the option to repurchase or nominate a purchases, rather than a commitment to repurchase.
8. This provision offers the option not to repurchase but does not change current practice.

9. Currently, there are 272 Equity Share for the Elderly leaseholders. In the financial year 2004/05 there were 38 leases completed at an average cost of £70,592 per property and 22 properties brought back at an average cost of £72,278 per property.
10. The present lease implies a commitment that all schemes will have a resident Scheme Manager. During the current review all options are under consideration and to allow flexibility it is recommended that the lease be amended, to give greater clarity and allow varied working arrangements for Scheme Managers. This would also reduce the risk of disputes.

Financial Implications

11. There are no financial implications as the changes to the leases give flexibility to exercise options and may not be used.

Legal Implications

12. Material changes to the standard lease (for all future grants) are required to give effect to the proposals. As an interim measure, the word "resident" has been deleted from the landlord's covenant "to provide a (resident) warden". However, further amendment is recommended along the lines of the specimen clauses set out in **Appendix C** to provide greater flexibility. Existing leases cannot be varied without the lessee's consent. The option to decline "buy back" is a substantial departure and will require careful legal drafting. In effect, the lessee will be able to assign the lease (if buy-back is declined) either to a nominated person or some other qualified person. Annexed to this Report are some suggested clauses that could be adapted (**Appendix A**). Further consideration is necessary before they could be adopted. A "catch all clause" is also recommended to give the Council the ability to introduce new services in consultation with the lessees without having to vary (by legal means) all the leases. This will enable the Council to provide new facilities "in the interests of good management" and to be able to charge for them. A specimen clause is also annexed (**Appendix B**).

Staffing Implications

13. None

Risk Management Implications

14. This report seeks to manage the risk of disputes and contain the potential financial liability implied by an extension of capital receipts pooling.

Consultations

15. None

Conclusions/Summary

16. Leases are drafted for the Equity Share Scheme on an ongoing basis and in order to allow for the changes that may be recommended by the HOPAG it is necessary to make adjustments to the leases at the earliest opportunity. The financial risk of wider pooling of capital receipts can be ameliorated by the changes suggested in the report.

17. The Housing Portfolio Holder at the meeting held on 2 August 2005 supported the recommendation that Cabinet authorise the redrafting of Equity Share leases and clarify the reference to a resident Scheme Manager.

Recommendations

18. That the Equity Share Leases are redrafted with immediate effect for all future leaseholders:
- (i) To give the Council the option to repurchase or nominate a purchaser, rather than give a commitment to repurchase whenever an equity share leaseholder wishes to dispose of their share of the property.
 - (ii) To give the Council greater flexibility in the provision of care by the use of Mobile Wardens or other options currently under consideration.
19. That consultation is undertaken with existing leaseholders with a view to extending the changes detailed above to existing leases.

Background Papers: the following background papers were used in the preparation of this report:

Cabinet Report 21 July; Capital Receipts Pooling and the latest Projection of RTB Receipts

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