

**BRIEFING NOTE –
Bromsgrove District Housing Trust (BDHT)
Disposal of Stock and details of any Claw Back Clause**

Overview and Scrutiny Board 10th September 2012

At the Bromsgrove District Council's Overview and Scrutiny Board held on 23rd April 2012 Members' requested the following:

“Officers to provide the Board with details of any disposal of stock that has taken place by BDHT and details of any claw back clause still in existence from BDHT.”

In response Officers can advise Members as follows:

1) Details of any stock disposal which has taken place.

To date, BDHT have disposed of four properties, with a further three approved/agreed following consultation with Bromsgrove District Council.

Two properties were sold in Clent and Belbroughton approximately 3 years ago. BDHT considered these properties to be 'exempt disposals'. The Council was concerned at the loss of rural units and challenged BDHT as to whether the dwellings were in fact 'exempt disposals'. As a result BDHT cancelled plans to market any further dwellings that they had identified at the time as requiring high levels of modernisation investment and a set of ground rules was established for BDHT to follow with regard to disposals to ensure full conformity with the terms and obligations set out in the Transfer Agreement with the intention of securing a stronger strategic partnership between the two organisations.

In February 2011, the Department for Communities and Local Government (DCLG) and Homes and Communities Agency (HCA) published an *Affordable Homes Programme Framework* setting out a new approach to the way that social housing was to be delivered from April 2011. The Affordable Homes Programme sought offers from Registered Providers (RPs) (formerly known as Registered Social Landlords (RSLs), e.g. BDHT, West Mercia Housing etc) to work with the HCA to deliver a new supply of affordable housing over the next four years - 2011 to 2015. This placed increasing pressure on RP's to dispose of dwellings to supplement the reducing government grant available for the development of new affordable housing. Alongside a flexibility for RP's to capitalise upon an increased rental stream, the new delivery model sought a competitive bid from RP's who use the new flexibilities on the use of existing assets to generate additional financial capacity to support new supply. There were therefore three broad funding streams:

- Additional borrowing capacity by conversion of Social Rent units to Affordable Rent.
- Cross subsidy through surpluses, outright sale, shared ownership sales, recycled grant and stock disposals.
- Free or discounted land, HCA Grant funding (but only where required to make a development viable).

The assumption was that the most competitive bids made by RP's would effectively combine these funding streams.

Therefore in April 2011 the Council's Cabinet considered a report that provided an overview of *The Proposed BDHT / West Mercia bid to the Homes and Communities Agency (HCA) for development grant funding for the programme period 2011 – 2015*. This report set out how the Council's Principal Preferred Partners (BDHT and West Mercia Housing) were proposing to respond to the Government's new framework for the delivery of affordable housing for the next 4 years including the financial contributions from the sources recommended in the guidance that included outright sale, shared ownership sales, recycled grant and stock disposals.

In order for the Council to give its full commitment to the principles of the proposed bid, Members were asked to agree to the sensitive elements of the bid which included the proposal that in order to raise sufficient funding to support the development bid, BDHT would have to dispose of between 15 – 20 dwellings over the period of the programme.

The report made it clear that in committing to the principles of the bid, Members would be agreeing to the full capital receipt from the proposed stock disposals being strategically invested in the development of new affordable housing provision on the basis of any proportion of the capital receipt that would be due to the Council being waived as a Council contribution towards the development bid.

It was resolved at the Cabinet meeting on 6th April 2011 that the content and principles of the BDHT bid to the HCA as outlined in the report be approved subject to it being made clear to BDHT that there was a requirement for improved communication with the Council's Chief Executive in respect of approval of proposed disposals, in order to ensure that no unreasonable concentration or pattern of disposals occurs in any particular rural area or other part of the District.

In October 2011, the outcome of the bid to the HCA to fund 250 dwellings resulted in a much reduced programme of 57 dwellings. The scaled down programme will therefore require the support of a reduced number of six disposals and to date, the Chief Executive Officer has only been asked to approve the first and second tranche of disposals relating to the following:

List 1 Properties (Sept 2011):	Sold – Yes or No	Comments
32 Kings Meadow, Clent	Yes – January 2012	
16 Shawhurst Lane, Hollywood	No	Property now re-let as social housing tenancy.
87 Waverley Crescent, Romsley	No	Property now re-let as social housing tenancy.
94 Stourbridge Road, Bromsgrove	Yes – March 2012	

List 2 Properties (August 2012):	Sold – Yes or No	Comments
57 Woodgate Way, Belbroughton	Expected to be sold September 2012.	
8 Lyttleton Place, Hagley	No	Tenant is moving out September at which point BDHT will assess its suitability.
11 Yew Tree Avenue, Belbroughton	No	Property recently vacated and with estate agent.

2) Details of Claw back clause still in existence through BDHT

The Large Scale Voluntary Transfer (LSVT) agreement governing the transfer of the former Council housing stock to BDHT back in 2004 required BDHT not to dispose of any part of the LSVT properties within 30 years without:

- 1) Giving the Council 14 days notice in writing of its intention to make a disposal, and
- 2) Accounting for and giving the Council a claw back sum which is calculated as 50% of the price received from the disposal, less some specified amounts which included what they originally paid the Council for the property and disposal fees etc.

The Transfer Agreement sets out a list of 14 specific circumstances where this obligation would not apply, called 'Exempt Disposals'. This list includes circumstance like the tenants Right To Acquire (a separate claw back applied for a specific period), where compulsory purchase orders apply, where land is needed for highways or utility services and in cases where special consent is received because there is an express direction of a Security Trustee or Mortgagee for the RSL to dispose of a dwelling or where the Council has agreed to a disposal to enable the RSL to trade out of any materially adverse financial difficulty.

Within this list of 'Exempt Disposals' is the circumstance where the Council and the RP work together strategically and it can be demonstrated that the net proceeds from a disposal would be entirely invested in a specific social housing development to meet the needs identified within the Council's approved housing strategy. Therefore where this occurs the net proceeds that would otherwise go to the Council and the RP are used to subsidise the development of new or additional affordable housing. This is becoming increasingly important as Government Social Housing Grant is becoming significantly reduced and less available.

The provision for the Council to receive capital receipts from any Right to Buy sales ended in March 2009.

3) Details of BDHT's new Development Programme to 2017.

In July 2012, BDHT approached the Council again in relation to a proposed Development Programme and Strategic Asset Disposal Strategy to 2017. Details of this are due to be presented at the 5th September 2012 Cabinet meeting. This report outlines further plans for the disposal of up to 30 units of accommodation to fund further housing development.

Although 30 properties will be disposed of, 200 properties will be built, resulting in a net gain of 170 affordable properties within the District.

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28th August 2012