

## To the MAYOR OF DONCASTER

### **Doncaster Central Development Trust – Lifting of the Asset Charges on NDC Properties**

#### **EXECUTIVE SUMMARY**

1. Since 1<sup>st</sup> April 2001, Doncaster Council has acted as the Accountable Body for Doncaster New Deal for Communities (NDC), a £52m Government programme specifically targeting parts of five deprived areas in Doncaster (Hexthorpe, Woodfield, Hyde Park, Balby and Netherhall).
2. The official programme end date was 31<sup>st</sup> March 2011 with the expectation that the NDC partnership would either close or transform into a successor body to manage the remaining portfolio of projects, in the case of Doncaster NDC, the partnership transformed into the 'Doncaster Central Development Trust' (DCDT) a Community Interest Company, which is currently managing the following assets: Church View, and a portfolio of 26 Houses.
3. To enable Doncaster Council to comply with the guidance laid down by the Secretary of State legal charges were placed on all NDC assets; this was to ensure the NDC resources were safeguarded from misuse. To date these legal charges are still in place and the purpose of this report is to recommend that these be lifted on the basis that the costs in placing a secondary charge by lenders is having a direct negative impact on supporting a registered Doncaster community interest company (DCDT).

#### **EXEMPT REPORT**

4. This item is not exempt.

#### **RECOMMENDATIONS**

5. R1: It is recommended that the all legal charges currently in place on properties purchased by Doncaster Central Development Trust (DCDT) utilising Doncaster New Deal for Communities resources are lifted with immediate effect; and that we request regular updates (Annually) from Doncaster Central Development Trust that determines how the assets are benefiting the residents of the NDC area.

#### **WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

6. The New Deal for Communities Programme was specifically targeted at 4,000 households within the centre of Doncaster; the decision to lift the legal charges helps maintain a legacy for those residents and communities within the NDC area; whilst also ensuring a community interest company located at the heart of Doncaster survives.

## BACKGROUND

7. Since 1<sup>st</sup> April 2001, Doncaster Council has acted as the Accountable Body for Doncaster New Deal for Communities (NDC), a ten year Government programme specifically targeting parts of five deprived areas in Doncaster (Hexthorpe, Woodfield, Hyde Park, Balby and Netherhall).
8. The official programme end date was 31<sup>st</sup> March 2011 with the expectation that the NDC partnership would either close or transform into a successor body to manage the remaining portfolio of projects, in the case of Doncaster NDC, the partnership has transformed into the 'Doncaster Central Development Trust' (DCDT), and is currently managing the following assets (Church View, and a portfolio of Housing (26).
9. The Accountable Body (DMBC) is the organisation which was appointed by the Secretary of State to be responsible for the receipt and proper use of the Doncaster NDC grant, and for ensuring the Partnership (DCDT) complied with the terms of which the NDC Grant was given, the offer of funding was made under the powers conferred on the Secretary of State in Sections 126 to 128 of the Housing Grants, Construction and Regeneration Act 1996.
10. To enable DMBC to comply with the guidance laid down by the Secretary of State on the utilisation and governance of NDC funds, assets purchased by the NDC Partnership required DMBC to place a legal charge on all of these to ensure the NDC resources were safeguarded from misuse, this legal charge was established until notification was received from the Department for Communities and Local Government stating otherwise.
11. On the 2<sup>nd</sup> August 2012, the Department for Communities and Local Government informed Doncaster Council that it had concluded its review of spend of the Doncaster NDC Programme, and that their correspondence is formal confirmation that the DCLG has lifted its asset clawback rights for assets bought with NDC funds by Doncaster New Deal for Communities Partnership, during the life of the programme, and the use or sale of these assets, and the use of income derived from them, is a matter for local discretion.
12. In the determination of DCLG decision it was previously recommended to Mayor Davies that the Council continues to maintain the legal charges, the rationale for this recommendation is that the Council signed off a ten year succession strategy in March 2010, which clearly outlined the benefits to the NDC residents until 2020, by DMBC maintaining a legal charge it will help to safeguard the assets purchased by NDC grant for the residents of the NDC area.
13. It has now been 5 years since that initial decision was made by the previous Mayor (Peter Davies); much has changed both nationally and locally, at a national level Central Government has significantly improved the regulation and operational guidance on Community Interest Companies; on the 2<sup>nd</sup> August 2013; and 4<sup>th</sup> April 2017, The Office for the Regulator of Community Interest Companies (Central Government) published detailed guidance on the management and transfer of CIC assets, for the purpose of this report Chapter 10 of this guidance applies stringent rules to CIC which prevent the CIC from disposing of assets inappropriately or less than full consideration. Any transfer of

assets must pass a series of tests which represent the best interests of the community and are permissible by the CIC regulator, failure by the CIC to adhere to these rules will result in the regulator intervening and potentially returning the assets back to the State.

14. At a local level DCDT board membership has changed significantly, both the Chair and its resident membership are significantly different, and now include private sector board members that are dedicated and focused on growing the Community Interest Company.
15. There has been fairly significant work at Church View with about ¼ of the main building in use with tenants who have long leases beyond a ten year period. Whilst the main tenant is the probation service, all the others are digital, creative, digital media and artists and it does appear to be forming the basis of a creative hub. A further ¼ of the main Church View building is very close to being ready and they have interest from companies who want to rent it.
16. In regards to the charges we have placed, DCDT are financing the works at Church View by relatively high interest secondary loans against the various properties they own. Doncaster Council still has first call on the properties, but given their asset value is estimated over £7m they have been able to take out secondary loans, so in effect all our charges are doing are making it that DCDT pay higher interest and thus achieve less 'community benefit'.
17. It is on this basis that we review the decision made previously on the utilisation of NDC Assets, DCDT in their engagement with Doncaster Council have stated that the lifting of the asset charges will enable DCDT to develop its next phase of capital investment, including a 12 flat block for the elderly in Hexthorpe, 2 eco houses in Nether Hall, some more community grants and further development of Church View, all proposals have a direct positive impact on the original NDC communities.
18. If Doncaster Council determines to lift the legal charges it is recommended Doncaster Central Development Trust provides regular reassurances that the assets are benefiting the residents of the NDC area. Although not enforceable prior to agreeing the lifting of the charges, we would seek a commitment from DCDT that they are willing to adhere to this principle.

## **OPTIONS CONSIDERED**

19. Option 1: Do nothing – Doncaster Council could continue to simply maintain a position which is the status quo, DCDT continue to access finance at an inappropriate level, with the detrimental impact being on the Community Interest Company and the residents it supports.
20. Option 2: (Recommended Option) – Doncaster Council makes a decision which is in the best interest of supporting the NDC residents; by lifting the legal charges currently in place on DCDT assets purchased utilising NDC resources.

## REASONS FOR RECOMMENDED OPTION

21. It is self-evident that as a result of the legal charges placed on DCDT this is having a detrimental impact on a Doncaster based community interest company and the residents it serves, it is therefore appropriate that we lift the legal charges to enable DCDT to obtain the growth and support the residents it serves.

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

21. The report has the following impacts:

Outcomes	Implications
<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Be a strong voice for our veterans</i></li> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>Doncaster Central Development trust is a CIC with a plethora of aims and objectives, ultimately here to serve the people off the NDC area. Its activity is closely aligned to the corporate priorities of the council.</p>
<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>Doncaster Central Development trust is a CIC with a plethora of aims and objectives, ultimately here to serve the people off the NDC area. Its activity is closely aligned to the corporate priorities of the council.</p>
<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>Doncaster Central Development trust is a CIC with a plethora of aims and objectives, ultimately here to serve the people off the NDC area. Its activity is closely aligned to the corporate priorities of the council.</p>
<p>All families thrive.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	<p>Doncaster Central Development trust is a CIC with a plethora of aims and objectives, ultimately here to serve the people off the NDC area. Its activity is closely aligned to the corporate priorities of the council.</p>
<p>Council services are modern and value for money.</p>	<p>Not applicable</p>
<p>Working with our partners we will provide strong leadership and governance.</p>	<p>Doncaster Central Development trust is a CIC with a plethora of aims and objectives, ultimately here to serve the</p>

	people off the NDC area. Its activity is closely aligned to the corporate priorities of the council.
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## **RISKS AND ASSUMPTIONS**

22. If the Council determine to lift the legal charges, there could be reputational issues should DCDT fail to manage the assets in accordance with the grant that they received. This is somewhat mitigated in DCDT having a multi representational board that has the community aspirations and the private sector nuance at the very heart of its business model. In addition, there are strict rules governing Community Interest Companies, especially around the utilisation and management of assets, failure to do so will result in the CiC regulator intervening and potentially returning the assets back to the state.

## **LEGAL IMPLICATIONS**

23. Section 1 of the Localism Act 2011 provides that “A local authority has power to do anything that individuals generally may do.” As the NDC programme has finished, the Council has the discretion whether or not to lift the charges on NDC assets.

## **FINANCIAL IMPLICATIONS**

24. There are no direct financial implications associated with this decision as the risk of DCLG reclaiming grant was removed in 2012.

## **HUMAN RESOURCE IMPLICATIONS**

25. There are no human resource implications arising from the recommendations contained within this report.

## **TECHNOLOGY IMPLICATIONS**

26. There are no specific technological implications arising from the recommendations contained within this report.

## **EQUALITY IMPLICATIONS**

27. There are no specific equality implications arising from the recommendations contained within this report. The Council considers and has due regard to the Public Sector equality duty (PSED) when developing and implementing risk mitigations.

## **CONSULTATION**

28. The NDC programme has long been in existence (2001) and involved a plethora of partners along its lifespan of delivery, it was therefore appropriate that the contents of this report be discussed with officers and members of Doncaster Council and the DCDT Board.

## **BACKGROUND PAPERS**

29. Non associated with this decision

## **REPORT AUTHOR & CONTRIBUTORS**

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