

Finance and Resources Committee

10.00am, Thursday 9 June 2016

Edinburgh Shared Repairs Service – Missing Share

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| Item number | 7.25 |
| Report number | |
| Executive/routine | |
| Wards | |

Executive summary

This report seeks approval of the Finance and Resources Committee to pilot the scheme suggested for use of the missing share power under section 50 of the Housing (Scotland) Act 2006.

Links

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| Coalition pledges | P40 , P41 |
| Council outcomes | CO7 , CO19 |
| Single Outcome Agreement | SO4 |

Edinburgh Shared Repairs Service – Missing Share

Recommendations

- 1.1 The Committee is asked to:
 - 1.1.1 Approve the payment of missing shares to enable essential common repairs to proceed in accordance with Section 50 of the Housing (Scotland) Act 2006.
 - 1.1.2 Agree that the Council will recover the payments made in relation to missing shares including associated administrative expenses and interest.
 - 1.1.3 Agree to pilot the missing share scheme over the 2016/17 financial year. This will be limited to 3 projects and cost benefit will be assessed at the year end as to its efficiency.

Background

- 2.1 City of Edinburgh Council's Scheme of Assistance promotes the principle that homeowners have the primary responsibility for maintaining and repairing their own homes.
- 2.2 However, responsible homeowners with shared responsibility for common repairs are often unable to progress essential repairs and maintenance due to other owners being unwilling or unable to contribute their share of the costs. This often leads to lengthy delays to repair works being undertaken resulting in further deterioration of the property.
- 2.3 If essential repairs are not carried out then the Council can, should it wish, issue a statutory notice to enforce repair works under the City of Edinburgh District Council Confirmation Act 1991.
- 2.4 In order to prevent a minority of owners delaying essential repairs and maintenance work, Section 50 of the Housing (Scotland) Act 2006 allows local authorities to pay missing shares when it is satisfied that:
 - 2.4.1 the maintenance proposed, having regard to the state of repair of the premises, is reasonable.
 - 2.4.2 the share of the estimated cost is correct, in terms of the title deeds.
 - 2.4.3 the owner who has not complied with the requirement is unable to do so.
 - 2.4.4 the majority of owners have agreed to carry out the work.
 - 2.4.5 the owners have set up a maintenance account as defined within the Scottish Government guidance.

- 2.5 The payment of missing shares is proposed as a further enhancement to the ESRS intervention service. The intervention part of the service has been successful in a number of cases in actively encouraging owners to organise repairs themselves without having to progress to the enforcement part of the service. The provision of the missing share option should contribute to the intervention part of the service.
- 2.6 The current staffing resource identified in the ESRS business plan will be sufficient to manage this work.
- 2.7 The provision of funds is subject to available funds within the current ESRS budget and therefore a minimum and maximum level of share should be considered in any application from owners.
- 2.8 The maximum financial commitment per missing share is recommended to be 10-15% of the project cost. Given the administrative tasks involved in the process, the minimum share value would be £500.
- 2.9 The administrative costs for tasks to be undertaken to process the application and undertake the accounting tasks should be charged to missing owners. We would propose an additional charge of 10% be added to the share cost. Interest will be applicable in the course of debt recovery in accordance with the Council's sundry debt policy.

Main report

- 3.1 A comprehensive procedure has been developed to add to the draft procedures currently being used in the implementation of ESRS. A copy of this is included in Appendix 1.
- 3.2 Should an owner wish an application to be considered, they can submit an application. This should include:-
 - 3.2.1 Evidence that the repair is critical or essential.
 - 3.2.2 Evidence that the property is owner occupied.
 - 3.2.3 Evidence of the maintenance account open.
 - 3.2.4 Evidence that the owner who is unable to pay their share and is in the minority.
 - 3.2.5 The split of the costs has been carried out in accordance with the title deeds.
 - 3.2.6 Further information including the last date for owners to pay their share and the start and completion dates programmed for the works.
- 3.3 The application will be considered at the ESRS Project Panel. The Panel will consider payment of a missing share for an owner who is: -
 - 3.3.1 Unable to pay into the funds; or
 - 3.3.2 It is unreasonable to ask them to do so; or
 - 3.3.3 The owner cannot be identified or found, by reasonable inquiry.

3.3.4 Or an owner is unwilling to pay.

- 3.4 The ESRS Project Panel's decision will be final and there shall be no right of appeal.
- 3.5 If the Council reject an application for a missing share the owners may still progress with the works by covering the missing share between them and recovering their contribution from the owner through the process under the Tenements (Scotland) Act 2004.

Recovery of Costs by the Council

- 3.6 The power to pay the missing share under S50 of the Housing (Scotland) Act 2006 is matched by the power to recover the sum from the owner of the house concerned (S59), together with administration charges and interest.
- 3.7 The local authority may also issue a repayment charge against the property to recover these expenses.
- 3.8 The recovery of costs incurred by the Council from an owner of a successful missing share application should be in accordance with the Council's sundry debt policy.

Measures of success

- 4.1 The degree to which the number of projects reaching the enforcement stage of the process in ESRS is reduced.
- 4.2 The use of this power in other local authorities in Scotland is noted by them to have benefited the local economy and facilitated the improvement of their areas private sector housing stock.

Financial impact

- 5.1 The resulting costs are to be met from the existing ESRS budget.

Risk, policy, compliance and governance impact

- 6.1 This area of work represents a measured financial risk for the Council, the alternative to provision of missing shares for repair works is to enforce works under the Confirmation Act. This alternative action poses a far greater financial risk to the Council as the burden of debt recovery for the whole project lies with the Council when works are enforced.
- 6.2 The Scheme of Assisitance statement shall be updated to reflect the Board and subsequent Committee approvals where appropriate.

Equalities impact

7.1 There is no equalities impact arising from this report.

Sustainability impact

8.1 There is no adverse environmental impact arising from this report.

Consultation and engagement

9.1 Not applicable.

Background reading/external references

10.1 Housing (Scotland) Act 2006, Section 50.

Hugh Dunn

Acting Executive Director of Resources

Contact: Andrew Field

E-mail: andrew.field@edinburgh.gov.uk | Tel: 0131 529 7354

Links

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| Coalition pledges | P40 – Work with Edinburgh World Heritage Trust and other stakeholders to conserve the city’s built heritage P41 – Take firm action to resolve issues surrounding the Council’s Property Services |
| Council outcomes | CO19 – Attractive Places and Well Maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm |
| Single Outcome Agreement | SO4 – Edinburgh’s communities are safer and have improved physical and social fabric |
| Appendices | |