

Housing, Homelessness and Fair Work Committee

10.00am, Tuesday, 27 February 2024

National Housing Trust (NHT) initiative: winding up NHT Limited Liability Partnerships

Executive/routine
Wards

Routine
All

1. Recommendations

- 1.1 Housing Homelessness and Fair Work Committee is asked to approve the wind up of the eight National Housing Trust (NHT) Limited Liability Partnerships (LLPs) through voluntary strike off and dissolution or Members Voluntary Liquidation.

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National Housing Trust (NHT) initiative: winding up NHT Limited Liability Partnerships

2. Executive Summary

- 2.1 As part of the National Housing Trust (NHT) initiative, eight Limited Liability Partnerships (LLPs) were set up in Edinburgh to support delivery of mid-market rent homes. The NHT LLPs were intended to remain in place until the homes were sold, between five and 10 years after being completed, and then wound up once their purpose was fulfilled.
- 2.2 The wind up of a solvent LLP can be achieved either by a Members Voluntary Liquidation under the Insolvency legislation (an MVL) or by a voluntary strike off and dissolution. For some of the LLPs, a voluntary strike off and dissolution is preferred as this can be quicker and less costly for LLP partners than an MVL. Approval is sought to enable the Council, as a Member of the NHT LLPs, to agree to voluntary strike off and dissolution under the Companies Acts or an MVL as appropriate, when winding up the NHT LLPs.

3. Background

- 3.1 The NHT initiative, launched by the Scottish Government in 2010 in response to the housing market crash of 2008, allowed for a developer to be appointed to build properties for mid-market rent. The Council agreed to participate in the initiative in August 2010 and has provided on-lending to support the delivery of over 800 affordable homes across the city. Developer partners were selected through a procurement process, with homes being built across eight different sites in the city. The homes were completed over three phases of the NHT initiative, with the first homes completing in 2013 and the final NHT homes completing in 2019.
- 3.2 LLPs were established to acquire the completed homes, comprising of the developer, the participating Local Authority and Scottish Futures Trust as members. The Council provided the loan funding to the developer partner to build the homes, with the loan being guaranteed by the Scottish Government. The homes are let to tenants at mid-market rent for five to 10 years following completion, after which the sitting tenants are given an option to purchase, with the Council having a right to

acquire or nominate a third party to acquire the homes. Assuming there is no nominee, under the standard terms of NHT 'exit', developers can sell homes on the open market between years five to 10 following completion, after giving tenants the option to purchase. It was never intended that all of the homes would remain as affordable housing, but the Council continues to work with partners to retain homes as affordable housing wherever possible at exit stage.

- 3.3 Eight LLPs were set up in Edinburgh under the NHT initiative. For five of the developments, the LLPs have already reached the five year 'exit' date, with the properties owned by each LLP having been sold and the Council loan repaid for each. The five LLPs which have reached their exit date do not now need to remain in place and can be wound up as their purpose has been fulfilled. The three remaining LLPs are reaching exit stage and will require in due course to be wound up once the LLPs no longer own homes.

4. Main report

- 4.1 The following five LLPs were set up between 2011 and 2015 under the NHT initiative:
- 4.1.1 Lighthouse Court LLP;
 - 4.1.2 Cityscape Edinburgh LLP;
 - 4.1.3 Telford NHT 2011 LLP;
 - 4.1.4 Leith Links NHT 2011 LLP; and
 - 4.1.5 Fruitmarket NHT LLP.
- 4.2 The properties owned by each LLP have now all been sold, with the majority remaining as affordable housing, and the Council loan has been repaid for each one. It therefore just remains for the LLPs to be wound up. This will then remove the administrative and financial burden of keeping them on the Companies House Register.
- 4.3 All Members Agreements (which were entered into at the setting up of each LLP) gave the Members the power to place the LLPs into an MVL but did not give Members the power to voluntarily strike off and dissolve the LLPs under the Companies Act. This appears to have been an administrative oversight and can be rectified by a simple variation of the Members' Agreements. Notwithstanding this, specific and separate Committee approval for the Council to enter into an MVL or a voluntary dissolution and strike off is being sought here to ensure all necessary Council approvals are in place.
- 4.4 A voluntary strike off is a quicker and cheaper option than entering into an MVL. In the case of an MVL, a liquidator is appointed to wind up affairs and any remaining liabilities are paid – this is a slower and more expensive option as it involves a third

party (the liquidator) managing the process which can be useful in less straightforward winding ups.

- 4.5 It has been resolved by the members of the relevant LLP that an MVL would be the most appropriate route for winding up the following LLPs:
- Lighthouse Court NHT LLP;
 - Cityscape NHT LLP; and
 - Telford NHT 2011 LLP.
- 4.6 In the case of Telford NHT LLP, an MVL is already underway. The LLP Members' Agreement anticipated an MVL, and the Committee approval for the sale of Telford homes to LAR also noted the intention to wind up the LLP. However, it is included here for completeness. An MVL was considered more appropriate as the Council was the lead partner in the LLP, having taken on the Developer partner role on purchasing the homes from the original developer in 2019.
- 4.7 The Developer partner generally leads on the wind up of the LLPs. The LLP Members are agreed that pursuing an MVL for the Cityscape and Lighthouse Court LLPs is the best option and wish to progress this as soon as possible. This is also anticipated in the Members Agreement for these LLPs.
- 4.8 A voluntary strike off and dissolution was considered a better option for the more straightforward winding up of the following two LLPs:
- Fruitmarket NHT LLP; and
 - Leith Links NHT LLP.
- 4.9 In relation to Fruitmarket NHT LLP, a strike off was completed in May 2023, so retrospective approval is required. Leith Links will be progressed within the next few weeks.
- 4.10 The three remaining NHT LLPs, where the homes are still in the ownership of the LLPs, are:
- Western Harbour NHT LLP;
 - Sandpiper Road 2014 NHT LLP; and
 - Shrubhill NHT LLP.
- 4.11 Wind up of these LLPs will take place at a later date, once the exit process for each one is complete, and the LLPs no longer own the homes. Approval is also sought to enable either a voluntary strike off and dissolution or MVL to be progressed in due course for these three remaining LLPs.

5. Next Steps

- 5.1 NHT LLPs will be wound up by strike off or MVL, as agreed by the LLP Members.

6. Financial impact

6.1 There are no financial impacts arising from this report.

7. Equality and Poverty Impact

7.1 There are no Equality and Poverty impacts associated with this report.

8. Climate and Nature Emergency Implications

8.1 There are no climate and nature emergency implications arising from this report.

9. Risk, policy, compliance, governance and community impact

9.1 Approval for the wind up of the NHT LLPs through either MVL, as envisaged in the Members Agreement for each NHT LLP, or through strike off, which was not explicitly written into the Members' Agreements, will ensure that the necessary approval is in place for either option to be taken.

10. Background reading/external references

10.1 National Housing Trust - Update: Finance and Resources Committee [17 January 2012](#).

10.2 National Housing Trust - Phase 2b: Report to Finance and Resources Committee [28 November 2013](#).

10.3 National Housing Trust Phase 3 – Procurement: Finance and Resources Committee [3 February 2015](#)

11. Appendices

11.1 None.