

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

**Infrastructure, Regeneration and Economic Development Committee:
17 September 2014**

Subject: Clydebank Rebuilt - Conclusion to the Purchase of Clydebank Property Company

1. Purpose

- 1.1** The purpose of this report is to update the Committee on the successful conclusion of the share purchase of all assets of the Clydebank Rebuilt Group of companies by the Council.

2. Recommendations

- 2.1** It is recommended that the Committee:

- note the process of the Share Purchase Agreement on behalf of the Council with Clydebank Rebuilt has been successfully completed; and
- support the governance model proposed for the Council owned 'Clydebank Property Company'.

3. Background

- 3.1** Clydebank Rebuilt was set up by West Dunbartonshire Council and Scottish Enterprise in 2002 to help reposition Clydebank as a creative, distinctive and successful Regional Centre within the Glasgow Metropolitan area. In 2002/3 Clydebank Rebuilt was recognised by the Scottish Government as an Urban Regeneration Company. The Council and Scottish Enterprise remain the sole members of the company which is also a registered charity.
- 3.2** The Board of Clydebank Rebuilt agreed to fund operations during 2013-14 using its own financial reserves exclusively. Whilst this has allowed Clydebank Rebuilt and its staff to operate last year and complete the last financially committed infrastructure project (Clydebank East Workshops), it was not a sustainable strategy due to limited and reducing surplus available.
- 3.3** In August 2013 the Council and Scottish Enterprise commissioned an independent review of the financial position of Clydebank Rebuilt. The commission was also tasked to identify ways in which the assets of Clydebank Rebuilt could be best protected for continuing economic benefit within the area and also allow for Clydebank Rebuilt's Board to ensure that all liabilities and obligations built up over the life of the company would be able to be met and a smooth transfer of assets to a successor body could be found.

- 3.4** The Board of Clydebank Rebuilt having received feedback from their own Sub-Group and been informed by the jointly commissioned report of West Dunbartonshire Council and Scottish Enterprise believed that the most effective and sustainable solution was for the Council to purchase their portfolio of assets and their continuing obligations. Following discussion between Council officials and Clydebank Rebuilt Board members, it was estimated that up to £800,000 would be an appropriate sum for such a transfer reflecting the net value of the assets involved. This would allow the Board of Clydebank Rebuilt to attend to all of its financial and staffing obligations and wind up Clydebank Rebuilt in an orderly manner.
- 3.5** At the Housing, Environment and Economic Development Committee on 22 January 2014, the Committee, on receiving a report entitled 'The Clydebank Rebuilt Asset Purchase Proposal' gave an in principle support to purchase all the shares of the Clydebank Property Company for the sum no greater than £800,000 as long as all the assets previously owned by the Clydebank Rebuilt Group of companies are held and owned by the Clydebank Property Company at the time of the purchase by the Council.

4. Main Issues

- 4.1** As Clydebank Rebuilt is a registered charity, discussions and agreement on the method of closure of the company and the sale of assets owned within the Clydebank Rebuilt Group has been on-going with the Charities' Regulator. As part of the Share Purchase Agreement, Clydebank Rebuilt evidenced that the Charities Regulator is supportive of the sale to the Council.
- 4.2** In order to satisfy Scottish Government, the Memorandum and Articles of Clydebank Property Company have been expanded upon to include some objectives which appeared within the Clydebank Rebuilt Memorandum and Articles. This reflects the Scottish Government's wish that regeneration and creating economic growth for the Clydebank and wider West Dunbartonshire Community remains an objective of the Council owned Clydebank Property Company.
- 4.3** Three Clydebank Rebuilt staff have transferred to the Council under TUPE regulations on 11 August 2014.
- 4.4** Clydebank Property Company presently employs 7 temporary staff to manage the visitors to the Titan Crane. This temporary employment will continue uninterrupted until their contract end date of 28 September 2014.

- 4.5** In terms of managing the day-to-day operations of the Clydebank Property Company going forward, it has been agreed that the responsibility for the effective running of the Titan Crane, in terms of budget, staff, visitors, marketing, health and safety and maintenance etc. will be the responsibility of the Libraries and Cultural Team within the Council's Education Department. The Corporate Assets Team within Housing, Environmental and Economic Development will take responsibility for the day-to-day management of all other assets and land ownership held within the Clydebank Property Company.
- 4.6** On 30 July 2014, the Boards of Titan Community Trust, Clydebank Property Company and Clydebank Rebuilt, all voted in agreement to the proposed share transfer of Clydebank Property Company to the Council. The Scottish Government, Scottish Enterprise, and the Charities Regulator have all now confirmed their agreement to these proposals.
- 4.7** On 11 August 2014, as part of the asset transfer process all previous Board members of Clydebank Property Company resigned their position. The Council as new owners of the company had to appoint new Board Members to the Clydebank Property Company. As the approach to managing Clydebank Property Company going forward will be focused on managing the day to day property assets it is proposed to appoint up to 3 Senior Officers to the Board of Clydebank Property Company to oversee its business and monitor its performance. The new board will include the Executive Director for Infrastructure, Regeneration and Economic Development, the Head of Finance and Resources and the Head of Legal, Democratic and Regulatory Services.
- 4.8** Once all necessary steps have been taken by Clydebank Rebuilt to close the company (expected to be 2-3 months) all Board Members of Clydebank Rebuilt will resign their positions.

5. People Implications

- 5.1** As previously stated at 4.3, three staff have transferred to the Council.
- 5.2** Management of the assets of Clydebank Property Company will require to use some of the existing management resource of both the Libraries and Cultural Services and Asset Management Teams. Resources from Corporate Finance will have to be utilised to manage the day-to-day financial transactions of the Clydebank Property Company. In addition, an element of senior management time will need to be devoted to the overall governance of the company.

6. Financial Implications

- 6.1** As stated above Council has earmarked up to £800,000 within its resources to allow the purchase of the shares of Clydebank Property Company.

- 6.2** Following further discussion as to what costs required to be covered within the share purchase price and in line with the Council's existing guarantee in regard to the pension liabilities of the Clydebank Rebuilt Group it has been decided that these liabilities will be subsumed within the Council's overall pension (currently a liability, but could change depending on future market conditions etc.). This has the effect of reducing the estimated cost of purchase as the anticipated £629,000 cost originally included in the £800,000 value is no longer required to be paid, and the final purchase price was agreed at £171,000.
- 6.3** There are some additional costs amounting to £93,000 relating to redundancy and a payment to the pension fund as a result of a retirement of one member of staff.
- 6.4** The total cost to the Council which would be funded from the earmarked funds is £264,000. This frees-up £578,000 from the earmarked balance.
- 6.5** Committee will recall Council agreed to the share purchase on the basis that it was an investment. Financial modelling around income projections has indicated that there is scope to generate reasonable dividend to the Council from the share ownership which is better than other currently available alternatives.

7. Risk Analysis

- 7.1** There is a commitment within the Legal Agreement that the Council indemnifies the Clydebank Rebuilt Board from any legal recourse as a Board and as individuals. This means that the Council will be responsible for any default, as a result of the operations of the Clydebank Rebuilt's Group of Companies over the period of their existence and remains a risk.
- 7.2** The Council's Legal Services conducted a diligence exercise on funding, property and construction documentation. A number of issues in relation to the completeness of this information were identified in a report to the Executive Director of Infrastructure and Regeneration, and were accounted for in the risk assessment and decision to acquire the assets.
- 7.3** All previous funders have agreed to the transfer of claw back conditions to the Council owned Clydebank property Company. Should the Council wish to sell or change the use of any of these assets, there is a risk that these claw back conditions would come into play. This would be taken into account in the options appraisal for any future disposal or changes of use.

- 7.4** There is a risk that the financial modelling regarding future letting and therefore income streams of the property company may not be achieved and that the level of dividend anticipated is not reached. This is significantly mitigated by the Council decision to rent Aurora House from the property company, however there requires to be active marketing of the remaining empty sites to maximise income and continue to meet the regeneration aspirations. Due to the rental of Aurora House, there is no risk that the investment at the price of £264,000 will be viewed as anything other than a good investment, as current other opportunities to invest funds would generate around 0.5% per annum (around £1,300), though clearly other opportunities may arise with better rates of return.

8. Equalities Impact Assessment (EIA)

- 8.1** The purchase is conditioned on the use of the assets being unchanged. Therefore, there is no impact from an equalities perspective.

9. Consultation

- 9.1** Both the Council and Scottish Enterprise have consulted with the Clydebank Rebuilt Board, the Scottish Government and Historic Scotland. Clydebank Rebuilt has consulted with members of the Titan Clydebank Trust and the Charities Regulator for Scotland.

10. Strategic Assessment

- 10.1** This proposal will significantly contribute to improving economic growth and employability; and improving local housing and environmentally sustainable infrastructure.

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Date: 1 September 2014

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Appendices None

Background Papers: Clydebank Rebuilt Group Review 2013
0Clydebank Rebuilt Asset Purchase proposal Report - HEED Committee 22.1.14

Wards Affected: 6