

From: Eric Hotson, Cabinet Member for Corporate and Democratic Services

Rebecca Spore, Director of Infrastructure

To: Property Sub-Committee – 17 July 2018

Subject: “Policy Return” Portfolio: The Consideration of Social Return Rents

Classification: Unrestricted

Past Pathway of Paper: N/A

Future Pathway of Paper: N/A

Electoral Division: ALL

Summary:

This paper sets out the County Council’s current position on social rents. It recognises that social rents can be an effective means to achieving improved service, wellbeing and economic outcomes which are supported by the Council. The report sets out the current position on social rents and the next steps required to deliver this as part of the Council’s asset management plan

Recommendation(s):

The Property Sub-Committee is asked to comment on and note the report.

1. Introduction

- 1.1 It is generally recognised across the public sector that there are numerous community groups, charitable organisations and Social Businesses that provide beneficial outcomes to residents and local business, although a number of commercial businesses now provide Social Value as part of their offer and procurement of these services can include a Social Value return.
- 1.2 These benefits can be educational, health, wellbeing, community-organisational and economic.
- 1.3 In 2015, the council implemented a new portfolio-based holding structure across the County Council’s estate to facilitate performance measurement to the estate. In recognition of the increasing importance of understanding Policy and Social Return of property assets, one of the three main portfolios set up was “Policy Return” as a distinct primary asset classification.

- 1.4 One featured asset characteristic included within the Portfolio Return portfolio is where assets are let for a rent below that would normally be expected to be achieved in the open market, recognising that the tenant is providing a service to Kent stakeholders, which would not be possible or at least difficult to achieve without the provision of subsidised space.
- 1.5 The Property Sub-Committee requested an information paper on the consideration of "Social Rents".

2. Financial Implications

- 2.1 Social rents are likely to be charged at below market value, so there is inevitably a financial "opportunity cost" for agreeing this approach. In the event that there is a Social rent charged and the County Council foregoes the additional income, then consideration needs to be given as to the Social value of the additional rent and what alternatives it might fund. Many of the existing arrangements are historic.
- 2.2 There is some argument that, financially, these arrangements are less transparent than, say, charging a full rent and then making a grant or similar payment and leaves the County Council with less flexibility in where it directs its funding and transparency as to whether the social return for the subsidy is being received. However, this type of mechanism often requires greater administration too.
- 2.3 On the other hand, however, such an arrangement can facilitate services and enhance the overall social / local offer to Kent stakeholders, which may not be otherwise funded for accommodation, for example Parish playing fields, nurseries, community clubs, etc.
- 2.4 Social Rents which are given to organisations can often be used as match funding for external grants, and, as such, lever funding in to local areas.
- 2.5 Renting temporarily for policy / social return can derive benefit to the County Council through reduced holding costs for property being held for another future purpose.

3. Statute & Kent's Policy Framework Context

- 3.1 Kent County Council is bound to a breadth of statutory duties and functions which it delivers throughout the organisation through its various services. They also deliver the County Council's vision contained in its Strategic Statement 2015-2020 to "Increasing Outcomes, Improving Opportunities".
- 3.2 The Council has a Voluntary and Community Sector (VCS) Policy which it adopted in 2015. This acknowledges the sector's role as a service provider but also the equally important role it plays within the communities of Kent and commits to a broader relationship with the sector rather than one that is purely financial, recognising that much of the sector is not funded by the County Council. It establishes four principles which will underpin grant funding: Clarity, Accountability, Transparency and Sustainability. It also identifies areas of social value relevant to the County Council. Social rents are closely related to the provision of grant funding in many respects and therefore any consideration of social rent must be consistent with this policy and compared overall to the provision of grant funding.

- 3.3 From the foundation of statute and the County Council's Strategic Statement and policy, the Council's activities are considerable. In addition to this, there are considerations such as community wellbeing which may be generally supported by the Council without any specific policy or strategy focus. For example, fields let to parishes promote a healthier lifestyle and more cohesive community, impacting positively across the County Council's overall service offer. Another specific example, along slightly different lines, is Kent's support for veterans through it providing space in its estate at a social rent.
- 3.4 The management of property assets itself is also bound by a complex framework of statutory requirements, financial matters, etc. For example, s123 of the Local Government Act 1972 permits short leases for less than best consideration (rent), the wellbeing exceptions following the General Disposal Consent (England) 2003 that gave greater latitude to lettings, more recently the general power of competence as set out in the Localism Act 2011, and Community Asset Transfer, which is the transfer of management and/or ownership of public land and buildings to a community organisation.

4. The Provision of Social Rent

- 4.1 Kent County Council holds approx. 1,800 assets in its estate. Its policy return portfolio currently holds a variety of assets including properties let for rent at less than market value. However, not all these can be considered "social rents", although they may be at less than market value.

[REDACTED]

- 4.3 In order that the County Council protect its position in respect of accepting "Social Return" rent, the Council will often restrict the use and alienation terms of a lease, though this obviously depends on the reason for the social rent.

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5. The Application of Social Rent

- 5.1 At this time, although the County Council will consider Social Rents where there is clear advantage to its application, there is no formal policy. A request for a social rent usually comes from a supporting Directorate (e.g. in the case of establishing nursery settings) or from organisations directly (e.g. in the case of Parishes wishing to extend local services) and internal consultation takes place accordingly. The Property Management Protocol also requires local Member consultation on "disposal" matters (lettings being a disposal type) and this is undertaken with every disposal.

- 5.2 Whilst social rents may have a direct link to services (e.g. early years nursery provision), in some instances, whilst a social rent may be enabling a worthwhile community benefit, it may not always be linked to those services for which the County Council is responsible. Given Council funding pressures, this is an area for review and it may be that the Council's VCS Policy can provide some basis for this. Where it is linked to a service, its provision can obscure the true cost of providing that service.
- 5.3 There is not yet a formal process for establishing social return rents, however, we are piloting an approach with the County Council's Children and Young People service where, if the Property Service is asked for a low rent, then the Business Case is referred to the service for consideration.
- 5.4 The level of Social Rents is quite difficult to determine and is often based upon affordability. In the case of Nursery settings, for example, particularly in deprived locations, the service cost is often marginal with the income it receives and therefore, where this can be demonstrated, the level is set at an affordable rate. The alternative would, in these cases, be to not support nursery settings at all, leading to the area being without a provision, which can have economic and client hardship impacts.
- 5.5 On agreement of the rent, a decision is made via the Directorate of Infrastructure's delegated powers deriving from the Property Management Protocol.
- 5.6 In order that an appropriate decision is made, the "advice to terms" (Director's delegated decision advice) will contain the proposed social rent level, the market rent estimate, other applicable proposed lease terms, a summary of the business case for utilising a social rent approach, any comments received from the consultation process. This provides an opportunity for the decision maker to consider the difference in rental levels (opportunity cost), how long this arrangement is proposed, the reasons for taking this approach and the views of stakeholders, including local Members.
- 5.7 Social and community value benchmarks are known to be available as grant funding solutions (which relates to Social Rents) become more comprehensively considered as an effective method of service delivery. This benchmarking could be applied within decision making going forward, although how it might work and how keeping such information up to date can be assured are matters which will need to be considered.

6. Managing Social Rents

- 6.1 Once embedded into a tenancy arrangement, it is often very difficult to "take back" and it is generally accepted to apply over the full agreement period. This means that the social rent may remain in place despite non-performance or changes in circumstance negating the requirement for such a rent.
- 6.2 Usually, Social Rent leases are restrictive in nature, to contain the use and occupation to the reason for permitting the arrangement. This can result in an additional management burden over, say, an investment portfolio, where property management must closely monitor lease covenant compliance.
- 6.3 When social rents are applied, then consideration needs to be given to ensure that, for commissioned services, the social rent is applied fairly to avoid claims of unfair advantage for one provider over another in a competitive procurement situation.

[REDACTED]

7. Measuring / Monitoring Social Rents

- 7.1 Presently, the County Council considers affordability/ financial hardship of the tenant and alignment with the Council’s key outcomes. The organisation does not yet have those benchmarks to compare outcome metrics with the opportunity cost (difference between market and social rents).
- 7.2 This is a weakness to a social rent approach where an asset’s value is used to derive “non-property” outcomes. The alternative, however, would be to collect a full market rent and then recycle it through a grant agreement. There are advantages to the alternative in that a grant approach can require performance measures and be withdrawn if these are not met, however this approach would have an increased administrative overhead.

8. Effects

- 8.1 Social rents can be an effective way to derive additional policy / community / social benefit from assets, although in a lease set up these can be difficult to measure and take action to rescind where appropriate.
- 8.2 They can be an effective way to match fund other grant funding and can therefore act as a stimulus to local investment and service improvement. The business case for providing a social rent can identify factors such as these to be centrally recorded as outcomes.

[REDACTED]

- 8.4 Social rents can establish false markets and may, depending on how it is applied, be considered as a state aid matter. A clear policy on where the County Council may use social rents may limit this effect.

9. Next Steps

- 9.1 Now the policy return portfolio has been established, with its aim of using assets to derive Council policy, social and community benefit, and the 2018 to 2023 Asset Management Strategy adopted, the next stage will be to establish an action plan to establish greater transparency, consideration and performance measurement of assets subject to social rents.

- 9.2 The current arrangement needs to be baselined to understand what low rent assets fall into the category “social rent” (as opposed to a low rent for other reasons, such as ground rent).
- 9.3 Consideration needs to be given on how Social Rent could be benchmarked, going forward, to derive meaningful performance indicators. Particularly, Infrastructure will need to work closely with the Strategy, Policy, Relationships & Corporate Assurance to ensure that these are consistent with the corporate position; the rents will need to tie in with the overall grant standards and the framework in the VCS Policy. In addition, Social Rents must be considered in the context of and included in the Charities database, which includes financial investment the County Council makes to charities, etc.
- 9.4 The provision and process for applying social rents needs further review, again to ensure a consistent corporate approach but also to ensure they are being applied appropriately with a sound decision basis that recognises opportunity cost as well as how they may facilitate better outcomes in the Kent community and economy.
- 9.5 These actions will lead to the introduction of a more robust process and guidance on the application of social rents. An EQIA will need to be undertaken to understand the impact of any outcome / change that may come about.

10. Conclusion

- 10.1 Social rents can be a useful tool in promoting community, social wellbeing and improved economy in the area. This is recognised through legislation enabling Councils to be able to agree rents at less than market value. The County Council also recognises this through its VCS Strategy, adopted in 2015.
- 10.2 However, Councils are now under even greater pressure to justify transparently how it derives better value to the tax payer. Social rents have an opportunity cost where the County Council should be clearer about why it takes these decisions and whether it is the most appropriate support mechanism for the outcome it is being considered for. The Strategy, Policy, Relationships and Corporate Assurance Team has undertaken work to identify County Council investment in charities etc. and this may assist with putting social rents into context and its provision overall. Some further work may be required to ensure social rents comply fully with the VCS Policy.
- 10.3 The next steps are:
1. Work with other parts of the Council to develop a social value measurement framework.
 2. Apply this framework to better understand best value by enabling a quantification of outcomes which can then be considered against the foregone rent's opportunity cost.
 3. Consider the relationship of Social rents with grant funding and contracts with charities and where each should be applied. Furthermore, whether social rent support should only be aligned to the County Council's function.

4. Report on the opportunity cost of the social rents and social benefit received
5. Continue to assess financial hardship as a means to assessing the need to apply a social rent.
6. Continue with the roll out of RPI rent uplift provision instead of rent reviews for low value properties

11. Recommendation(s)

Recommendation(s): The Property Sub-Committee is asked to comment on and note the report.

12. Background Documents

- 7.1 Asset Management Strategy – 2018 to 2023: <http://kcc-app610:9070/documents/s85328/Asset%20Management%20Strategy%202018%20-%202023.pdf>
- 7.2 VCS Policy – September 2015: <http://kcc-app610:9070/documents/s85329/Voluntary%20and%20Community%20Sector%20Policy.pdf>

13. Contact details

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