

DECISION TITLE: Invest to Save – investing in Housing
Councillor Marco Cereste, Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business Engagement
October 2014
Deadline date: October 2014

Cabinet portfolio holder: Responsible Director:	Councillor Marco Cereste, Leader of the Council and Cabinet Member for Growth, Strategic Planning, Housing, Economic Development and Business Engagement John Harrison: Executive Director of Resources
Is this a Key Decision?	YES If yes has it been included on the Forward Plan : YES Unique Key decision Reference from Forward Plan : KEY/17OCT/02
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	YES It will be necessary to retain two of the papers as exempt annexes because they contain information on the heads of terms agreed with Axiom Housing, as well as the legal advice relating to those arrangements. These exempt annexes are NOT FOR PUBLICATION by reason of paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972. The public interest test has been applied to the exempt information and it is considered that the need to retain the information as exempt at this stage outweighs the public interest in disclosing it. This is because the information is considered to be commercially confidential, as to disclose may compromise the Councils ability to benefit from similar arrangements in the future.
Is this a project and if so has it been registered on Verto?	No

RECOMMENDATIONS

The Cabinet Member is recommended to:

1. Approve the Council entering into a £30 million, 30 year loan agreement with Axiom Housing Association Ltd
2. Delegate to the Executive Director Resources the preparation and conclusion of the legal agreement between the Council and Axiom Housing Association Ltd in respect of the loan.

1. SUMMARY OF MAIN ISSUES

- 1.1 The Council has a long history of helping to support economic growth and support the development of new homes within the City. This has included provision and support for provision of social housing within the area, including through its Housing Strategy.
- 1.2 The Council has used its financial covenant to support this approach where it can. For example it has invested £2m within Lloyds as part of the Local Authority Mortgage scheme (LAMS). As well as the Council receiving a return on the investment, the scheme has also helped nearly 70 first time buyers move into their first home since inception. The scheme was a model for the national help to buy scheme. In order to proceed with LAMS, the Council needed to amend its Housing Strategy. This was a decision for Full Council, whilst the scheme itself was an executive decision.
- 1.3 The Council has continued to review options for further supporting the development of housing. This has included discussions with Axiom housing regarding investing directly into the Association. The Council would become one of the Association's lenders, providing finance for them to invest in housing provision. This approach provides two major benefits:
- Axiom can deliver more housing due to being able to secure lower cost finance through the Council
 - The Council receives a return that it can use to help protect services
- 1.4 A number of Councils have proceeded with similar arrangements, including Warrington and East Lindsey. Other Councils have entered into agreements to support other services in their areas e.g. Northumberland County Council refinancing the local Hospital PFI, and Northampton BC investing in the University of Northampton
- 1.5 This CMDN follows approval by Council at their meeting of 8th October 2014 of an amendment to the Treasury Management Strategy providing the relevant accounting treatment to allow for the loan.

2. PURPOSE OF THIS REPORT

- 2.1 *This report is for the Cabinet Member for Resources to consider exercising delegated authority under paragraph 3.4.8 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (g).*
- 2.2 The attached Exempt Annexes are NOT FOR PUBLICATION in accordance with paragraph 3 of Schedule 12A of Part 1 of the Local Government Act 1972 in that it contains information relating to financial and business affairs, namely the Heads of Terms agreed with Axiom, as well as the legal advice on those Heads of Terms.
- 2.3 The public interest test has been applied to the exempt information and it is considered that the need to retain the information as exempt at this stage outweighs the public interest in disclosing it. This is because the information is considered to be commercially confidential, as to disclose may compromise the Councils ability to benefit from similar arrangements in the future.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO
---	-----------

4. CONSULTATION

4.1 Consultation has been held with Cabinet Members and the Leader of the Council

5. AXIOM HOUSING

5.1 Axiom Housing Association was established in 1967. Their mission is to make a positive difference to people's lives. Axiom currently:

- Own more than 2,200 homes across Peterborough, Cambridgeshire and Lincolnshire, and provide housing and services to over 5,500 people
- Supported services provide support for vulnerable people, those leaving care, people with learning difficulties and with mental and physical health needs.
- Axiom Academy, provides quality learning, training and skills development for learners from 16 to 80 years old.
- Employ more than 200 people.
- Are a Sunday Times Top 100 Best Employer and have achieved the top Gold award for Investors in People putting them in the top 2% of employers in the UK.
- Provide a range of high-quality homecare services through Axiom Crossroads Care.
- Develop new homes through the Blue Skies development consortium

5.2 Further details, including the latest annual report can be found at the link below:

<http://www.axiomha.org.uk/publications>

5.3 As part of the discussions with Axiom, some initial proposals have been suggested for the possible use of the loan funding. This could potentially include:

- Axiom has been very successful in securing HCA grant for a number of schemes across the Peterborough housing sub region. Within the HCA funded programme is a 60 unit extra care scheme in Whittlesey which comes within the Peterborough/Cambridgeshire Borderline Clinical Commissioning Group. The CCG have been very supportive of the scheme and Axiom has agreed that Peterborough City will have nominations to 5 units of accommodation in the scheme to be developed in 2016.
- Axiom are in advanced discussions with Peterborough and the NHS on developing the NHS owned site in Alma Road, which will assist in alleviating the social issues in the area and provide an additional extra care/respite facility in partnership with both the Council and the NHS.
- Axiom has also secured HCA funding for a number of general needs homes for rent in Peterborough. Axiom is part of the Blue Skies development consortia with Longhurst Group, and are looking to exploit the opportunity to acquire and develop a number of strategic sites within Peterborough over the next five years to provide a combination of affordable housing for rent and shared ownership homes to meet local housing need.

6. KEY DETAILS OF THE LOAN FACILITY

- 6.1 The full Heads of Terms agreed between the Council and Axiom are included in exempt annex 1. Following approval of the CMDN, these will be worked up into a formal legal agreement covering the loan facility.
- 6.2 The Council will borrow from the Public Works Loans Board (PWLB). Provided that the borrowing level is within the Council's approved Treasury Management limits and expenditure with the appropriate budget (usually capital programme), then the Council can borrow from PWLB (these issues are covered further under financial implications). The Council will then invest this money in Axiom, depending on draw down requests from Axiom.
- 6.2 The key elements of the loan facility are as follows:
- An initial loan facility of £10m will be provided – with an option to extend to £30m in total
 - Axiom can draw down sums within the overall facility as required
 - The facility will be available for 30 years (but funding will need to be drawn down by March 2020)
 - The Council would gain a margin on the lending. This will be set at the higher of either a specific minimum level, or with reference to market benchmarks.
 - Axiom will cover Council costs, plus arrangements fees for the two tranches of the facility
 - The loans will be secured on an identified section of Axiom stock (The Council will not be the only lender to Axiom, so the security is not the entire stock)
 - The geographical coverage for the facility allows Axiom to use the funding for operations within Peterborough and the surrounding Councils. It is considered that the Council will still benefit from development in the surrounding area, as it can help alleviate housing pressure and support those who may work within the immediate Peterborough area. It also provides the flexibility to support Axiom in their development plans (without this flexibility the margin gained would probably be less)

7. DUE DILIGENCE AND RISKS

- 7.1 As well external legal advice, the Council engaged the services of a former Housing Association Finance Director to support the internal team. Specific due diligence undertaken included a review of Axiom accounts and financial plans and an assessment of the terms being considered compared to market norms
- 7.2 The review of the accounts was positive, including the following:
- A net surplus of £908k was achieved in 2013/14
 - Only 12% of debt is on variable rates so they are at low risk from any interest rate increases which are expected at some time
 - Debt is £23.2k a unit which is not unduly high
- 7.3 The Council queried some elements of potential pension liabilities with Axiom, who in turn provided details of the sensitivity analysis undertaken within business planning for potential liability scenarios. This additional information proved satisfactory.
- 7.4 The Regulator for Housing Associations is the Homes and Communities Agency which is an agency of CLG. The HCA publishes its ratings for an association's Viability and Governance and earlier this year these were confirmed for Axiom as V1 and G1 which are the highest ratings.

7.5 Security/Asset Cover

The loan will be secured by a first charge over properties with an assessed valuation equivalent to 105 - 125% of the amount loaned. This valuation approach reflects the nature of the stock, including covenants and tenancy arrangements, and is not a simple open market value of the stock. The contract with Axiom also contains a provision for the properties to be revalued every five years, which mitigates the risk of fluctuations in property values.

However, even with this level of security, the loan cannot be entirely without risk. In the event that Axiom ceased to continue as a Registered Provider, and there was a fall in the value of property greater than the amount of surplus asset cover provided for, the authority could face a possible loss on the investment.

In such a scenario the following is likely to happen:

- The Council would look to transfer stock to another provider, with a continuation of the loan liability (meaning no loss to the Council)
- The Council may need to sell some stock depending on the valuation at that time to maximise value and ensure there are no losses. These sales would tend to be of empty properties on the open market, meaning they would no longer be utilised as social housing

7.6 Loan Interest Repayments

Axiom have to agree to loan covenants to keep income above interest costs on loan. Any default must be reported to the Council.

Axiom, along with other Registered Providers, are reliant mainly upon rental income in order to cover their annual operating costs, which will include their interest liability to the Council. Although they carry out detailed forward budgeting procedures, there are factors which could affect their income that are particularly difficult to assess at present. In addition to continuing economic uncertainty, and the possible affect upon tenant employment, changes are being made to the welfare benefit system. This is recognised as a factor which could affect rent arrears, and in turn bad debts and available income/cash flow.

An inability of Axiom to make its interest payment on time would result in the Council's income/cash flow suffering a reduction or, at worst, total loss, at least for a period of time until matters such as asset value cover were settled. In broad terms, the maximum amount of annual revenue loss that would result from a failure for any loan interest repayments to be made would be some £1.2m per annum. This assumes that the Council was paying interest on its loan, but receiving no payment from Axiom. However it is considered very unlikely that such a position could continue for long, and alternative arrangements would need to be made.

7.7 Axiom are subject to a regulatory and legal framework administered by the Homes and Communities Agency as Social Housing Regulator. This process includes the annual submission of audited accounts, and confirmation of ongoing financial viability.

8. ANTICIPATED OUTCOMES

- 8.1 Approval of this report's recommendations will allow the Council to make loans to Axiom Housing, providing a return to the Council (noting that first the Council would progress to full loan agreement and valuations before any drawdown can take place).

9. ALTERNATIVE OPTIONS CONSIDERED

- 9.1 Do nothing – the Council would not receive a return on its investment, and Axiom would potentially have to pay higher rates in the market, reducing their ability to invest in housing

10. FINANCIAL IMPLICATIONS

- 10.1 Within the Council's accounts, the investment with Axiom will be treated as Capital Expenditure. Within the definition of the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (the "Regulations") section 25 states that expenditure of a local authority will be treated as capital expenditure if:

‘the giving of a loan, grant or other financial assistance to any person, whether for use by that person or by a third party, towards expenditure which would, if incurred by the authority, be capital expenditure’

Therefore, as the loan to Axiom will be used for the provision of housing, the Council will need to class the loan as Capital Expenditure.

- 10.2 The capital expenditure will be funded through the invest to save capital budget. As the Council will make a margin (plus fees) on the loan, this use will meet the criteria for use of that budget.
- 10.3 This CMDN follows approval by Council at their meeting of 8th October 2014 of an amendment to the Treasury Management Strategy providing the relevant accounting treatment to allow for the loan. It is considered that the repayment of the loan (as the loan will have security over the housing stock of Axiom) will negate the need of an amount of MRP to be charged as reliance can be placed on the capital receipt that will be generated when the loan is repaid, or in the event of default, on the sale of the housing stock over which the Council has security.
- 10.4 The Council will make margin and fees on the loans. This income will be fed into the MTFs, enabling the Council to make savings and protect services.
- 10.5 The potential financial risks relating to the loan are specifically covered within section 7 of this report.

11. LEGAL IMPLICATIONS

- 11.1 The Council must be satisfied that it has appropriate legal powers to make the loan described in this report. The Council has taken formal external legal advice from Pinsent Masons on the matter. Their full advice is included in exempt annex 2
- 11.2 The Council has the power under section 24 of the Local Government Act 1988 to make loans for the purpose of a wide range of activities associated with the construction and acquisition of property which is to be privately let as housing accommodation. Advice taken from Pinsent Masons provides assurance that the Council's lending powers may be used for the intended purpose by reliance upon a combination of section 24 of the Local Government Act 1988 and the Localism Act 2011.

State aid

- 11.3 Members are reminded that state aid is the unlawful practice of offering financial support to one party so that they have an advantage over others. This leads to competition in the commercial market being distorted.
- 11.4 The Council have received legal advice on this issue from Pinsent Masons. They are of the view that there is unlikely to be any State Aid issues in making the loan, primarily because it is made at a commercial rate of interest. Their full advice is included in exempt annex 2.

Consultation (officers/ward councillors)	Section	Name	Outcome	Date
<i>Legal and finance should be consulted regarding the proposals. Ward Councillors, other Cabinet Members and officers should be consulted if the proposals will have an impact on their service area/ward.</i>	Ward Councillors <i>(if decision is ward specific)</i>	Not Applicable	Not Applicable	
	Legal	Mike Rowan		
	Finance	Carole Coe		
	Democratic Services	Gemma George		
	Procurement Project Director <i>(if decision is contract/procurement related)</i>	Andy Cox		
	Head of Strategic Property <i>(if decision is property related)</i>	Not Applicable	Not Applicable	
	Other Officers / Members	Not Applicable	Not Applicable	
Director's approval <i>Directors are requested not to sign if the above section is incomplete</i>				Date
Date sent to Cabinet Member if key decision	<i>To be inserted by Democratic Services</i>			
If key decision – date decision may be taken	<i>To be inserted by Democratic Services</i>			
Cabinet Member approval				Date
Reasons for making decision Please tick one of the Options	Option 1 I agree with the officer's reasons for recommending the decision.			
	Option 2 I agree with the officer's reasons for recommending the decision and have the following additional comments to make.			
Once signed by Director, please pass to Democratic Services. We will contact the Cabinet Member and arrange for signature.				

This page is intentionally left blank