

# Housing Transfer Committee

**22/23/26 March 2007**

**The meeting commenced at 11.00am on Thursday, 22 March 2007, was adjourned at 12 noon to re-commence at 2.00pm on Friday, 23 March 2007. The meeting was further adjourned at 2.30pm to re-commence at 9.00am on Monday, 26 March 2007. The meeting was concluded at 9.25am on 26 March 2007**

**Present:** Councillor Peter Goldsworthy (Chair), Councillors Peter Malpas and Francis Culshaw (Councillor Malpas was not present at the adjourned sessions of the Committee on 23 and 26 March)

**Also in attendance:** Mr R Beiley and Mr M Gaskell (Trowers and Hamblins)  
(Mr Beiley was present at only the adjourned session of the Committee on 26 March)

**Chorley Borough Officers:** Colin Campbell (Executive Director - Environment and Community), Gary Hall (Director of Finance), Helen Schofield (Corporate Transfer Project Officer) and Tony Uren (Democratic Services Officer)  
(Mr Docherty was present at only the meeting on 22 March)

## **07.HTC.27 MINUTES**

The minutes of the meeting of the Housing Transfer Committee held on 21 February 2007 were confirmed as a correct record.

## **07.HTC.28 DECLARATIONS OF ANY INTERESTS**

There were no declarations of interest by any of the Committee members in any of the meeting's agenda items.

## **07.HTC.29 EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED – that the press and public be excluded from the meeting during the consideration of the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraphs 1, 3 and 4 of Part 1 of Schedule 12A to the Local Government Act 1972.**

## **07.HTC.30 TRANSFER AGREEMENT - SUPPLEMENTARY BRIEFING NOTE**

The Committee received and considered a supplementary briefing note from the Council's Legal Consultants (Trowers and Hamblins) on the terms and provisions of the housing stock Transfer Agreement between the Council and Chorley Community Housing Limited (CCH), which updated the Members on the issues that had remained outstanding at the last meeting of the Council on 6 March. The Council had, at that meeting, approved the transfer on the best acceptable final terms as based upon the draft terms and provisions contained in the Consultant's report to the Council, and had granted delegated power to this Committee to agree all outstanding matters, including any consequential variations that may be required to complete the transaction.

The Members' attention, in particular, was drawn to the ramifications of the following proposed elements of the Agreement:

- the specific terms of the indemnity to be offered by the Council in respect of the current job evaluation process;

- the two Deeds of Warranty to be provided by the Council in favour of CCH's lenders and in favour of CCH itself.

Special reference was made to the proposed restrictions to be imposed on CCH's ability to claim under the environmental warranties in relation to any redevelopment plans. While claims could be justified in appropriate circumstances in respect of certain developments, the Council would not allow environmental warranty claims in respect of commercial property developments.

The Committee was also advised that the Department for Communities and Local Government had stipulated that, unless Chorley Community Housing and its funders indicated their acceptance of the revised terms and provisions of the Transfer Agreement later that day, completion of the transaction would need to be delayed beyond the projected date of 26 March 2007.

#### **07.HTC.31 ADJOURNMENT OF MEETING**

**RESOLVED – That the meeting be adjourned to resume at 2.00pm on Friday, 23 March 2007 to consider (i) an update on the outstanding Transfer Agreement issues; and (ii) the procurement of insurance cover in respect of potential claims under the environmental warranties.**

#### **Proceedings at adjourned meeting on 23 March 2007**

#### **07.HTC.32 ENVIRONMENTAL WARRANTY**

The Director of Finance presented a report seeking authority to secure an appropriate insurance cover against potential claims under the environmental warranties to be provided by the Council on the stock transfer.

The Committee was reminded that the Council would be required to grant warranties to indemnify Chorley Community Housing against claims for contamination and pollution which might arise during the 18 years from the transfer of the assets.

An environmental study commissioned by the Council to assess the potential risks had identified a number of medium risk areas and quotations had been sought from two short-listed insurance companies for the provision of insurance cover in respect of the Council's potential liability. The two quotations received, which varied considerably and contained numerous provisos and exclusions, would require further evaluation by the Council's legal and insurance advisors.

The Committee accepted the prudence of seeking insurance cover against any potential liability, the cost of which could either be funded initially from balances or through a reduction in the VAT shelter monies.

**RESOLVED – (1) That approval be given to the Council taking out an insurance policy to cover as much as possible of its potential liability under the environmental warranty to be granted by the Borough Council to Chorley Community Housing.**

**(2) That the Director of Finance be granted delegated power to agree appropriate terms and make arrangements for the execution of the insurance cover.**

#### **07.HTC.33 TRANSFER COMPLETION ARRANGEMENTS**

The Officers reported that the Secretary of State had issued his formal consent to the transfer of the Council's housing stock to Chorley Community Housing.

The Committee was informed that a number of issues still remained to be resolved before the Transfer Agreement between the Council and Chorley Community Housing could be finalised and signed. Negotiations between the two parties and their respective consultants were continuing in the hope that the transaction could be completed, as envisaged, on Monday, 26 March 2007.

**RESOLVED – That the meeting be again adjourned to resume at 9.00am on Monday, 26 March 2007 to consider further the transfer completion arrangements.**

**Proceedings at adjourned meeting on 26 March 2007**

**07.HTC.34 TRANSFER COMPLETION ARRANGEMENTS**

The Officers and Consultants updated the Members on the on-going negotiations with Chorley Community Housing and their consultants, indicating that the current discussions were focused on the resolution of three outstanding commercial issues centring around the Pensions Admission Agreement, the implications of the job evaluation process and indemnities in relation to disclosures made by the Council in respect of a number of staff transferring to CCH under the TUPE regulations.

The Members indicated their support of the Council's negotiating stance in respect of the outstanding issues which, in particular, did not accept the proposed inclusion in the Pensions Admission Agreement of a Council indemnity.

**RESOLVED – (1) That, subject to Resolution (2) below, approval be given to the transfer of the Council's housing stock to Chorley Community Housing on the basis of the terms and provisions outlined in the Council's legal consultants' report submitted to the Council meeting on 6 March 2007, as now revised and updated by the consultants within their written and verbal reports to this Committee meeting.**

**(2) That the Executive Director – Environment and Community and the Director of Finance be granted delegated authority to determine all outstanding issues in relation to the Transfer Contract (particularly around the Pensions Admission Agreement; Job Evaluation; and staff disclosure indemnities) and to agree final variations to the Contract.**

Chair