

Housing Transfer Committee

Tuesday, 10 October 2006

Present: Councillor Peter Goldsworthy (Chair), Councillors Peter Malpas, Greg Morgan and Francis Culshaw

Also in attendance:

Chorley Borough Officers: Colin Campbell (Executive Director - Environment and Community), Gary Hall (Director of Finance), Helen Schofield (Corporate Transfer Project Officer), Roger Handscombe (Director of Property Services), Tony Uren (Democratic Services Officer), Alan Johnson (Enterprise BWNL), Rob Beiley (Trowers and Hamblins) and Mr M Gaskell (Trowers and Hamblins)

06.HTC.13 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest by Members of the Committee on any of the agenda items.

06.HTC.14 MINUTES

The minutes of the meeting of the Housing Transfer Committee held on 12 September 2006 were confirmed as a correct record for signature by the Chairman.

06.HTC.15 HOUSING STOCK TRANSFER - PROJECT HIGHLIGHT REPORT

The Corporate Transfer Project Officer presented the updated highlight report on the transfer process for the monthly period from September to October 2006.

The report confirmed the Council's agreement of the post ballot budget and the despatch of the Section 25 letter; summarised the completed stages of the process; and outlined the outstanding tasks. The Committee was informed that three Sub-Groups (ie Asset, Finance and Disengagement Sub-Groups) had been set up to deal with issues and problems falling within their respective remit and Chorley Community Housing's Finance Committee was expected to agree the funding prospectus shortly, with a view to the appointment of funders by early December 2006.

The report confirmed that the project was currently on track and was envisaged to remain on track up to the completion of the stock transfer.

RESOLVED - that the project highlight report be noted.

06.HTC.16 EXCLUSION OF PRESS AND PUBLIC

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

06.HTC.17 OVERVIEW OF THE TRANSFER AGREEMENT

The Committee received and considered a report of Mr R Beiley from the Council's Legal Consultants, Trowers and Hamblins, which highlighted and summarised the main elements of the Transfer Agreement that would require to be negotiated between the Council and Chorley Community Housing (CCH). Mr Beiley drew attention, in particular, to the following issues referred to in the various clauses and schedules of the first draft agreement:

- **Rent and Service Charge Arrears**

The two parties in the Agreement would need to determine whether any arrears of rent and service charges owing by transferring tenants should be sold to CCH and, if so, agree the price to be paid.

- **Staff**

CCH and its funders would expect a number of warranties from the Council in relation to the terms and conditions of employment (and related matters) to be applied to the employees transferring to the company under the TUPE regulations. CCH may also require indemnities from the Council against the possibilities of both incorrect information being provided on transferring staff and TUPE claims being made after the transfer by staff retained by the Council.

- **Housing Agency Agreement**

The contract would need to incorporate a Nomination Rights Deed to enable the Council to discharge its statutory duties to the homeless following transfer. The contract would, however, also provide for CCH's discharge of this statutory duty, together with the maintenance of the housing register and housing allocations on the Council's behalf.

- **Right to Buy Sharing Arrangements**

The Agreement will need to specify the agreed arrangements for the division of the proceeds of 'Right to Buy' sales of houses after the transfer to ensure that the Council benefits from the proceeds of the sales of houses in excess of the purchase price paid by CCH.

- **VAT Shelter**

The Agreement would incorporate the proposed VAT sheltering arrangements to clarify the manner in which any accrued savings were accounted for and utilised.

RESOLVED – that the overview report be noted.

06.HTC.18 WARRANTY ISSUES

Mr R Beiley (Trowers and Hamblins) submitted a report outlining the nature and reasons for the preparation two Deeds of Warranty (one in favour of Chorley Community Housing and one in favour of CCH's funders) to support the transfer contract.

The warranties would comprise a series of statements providing details of title, other factual information and environmental matters which the Council ought to disclose to CCH and its funders. The warranties would stipulate a time period during which claims under the warranties could be brought.

The provision of Deeds of Warranty had evolved over the period since the first housing stock voluntary transfer in order to avoid both the time and prohibitive cost implications of undertaking a full investigation of title and the duplication of the due diligence exercise and additional surveys.

Mr Bailey emphasised the importance of the examination of ways in which the Council could limit or mitigate the risks inherent in the warranties, including the undertaking of appropriate due diligence exercises to establish any matters that appear contrary to the statements made.

RESOLVED – That the report be noted.

06.HTC.19 HOUSING REVENUE ACCOUNT PROPERTY ASSETS

The Committee received a report of the Director of Property Services on the arrangements for the identification and transfer of Housing Revenue Account assets to Chorley Community Housing.

The report indicated that the Assets Sub-Group had approved the following criteria for either the transfer or retention of HRA property assets:

- The Council would transfer all houses and curtilages; amenity areas contiguous to transferred houses; and garage colonies and land contiguous to transferred houses without development potential.
- The Council would retain areas of formal recreation land and facilities; garage colonies and land with potential for development; and other land without development potential and not contiguous to transferred houses.

Consequently 318 property parcels had been registered with the Land Registry, of which the Council proposed to transfer 237 parcels to CCH, retain 36 parcels and return 45 parcels to the Land Registry for sub-division or re-registration in separate parcels.

It was anticipated that the process would be completed by the end of December 2006 in readiness for the legal transfer in March 2007.

RESOLVED – (1) That the report be noted.

(2) That details of the HRA property assets proposed to be either transferred to CCH or retained by the Council be made available to Members requiring the information.

06.HTC.20 STOCK VALUATION PRINCIPLES AND UPDATED ASSUMPTIONS

Mr A Johnson from the Council's Lead Consultants, Enterprise BWNL, presented a report outlining the principles that would apply to the valuation of the housing stock for transfer purposes, which were defined within Government guidelines and mathematical formulae to calculate the tenanted market value (TMV) of the stock.

The report highlighted the factors taken into account in the calculation of the TMV and the assumptions that underpinned the original financial projections and used in the initial valuation of the housing stock at £2.6m. While the assumptions were currently being reviewed and updated, the Committee was reminded that it was unlikely that the initial valuation would change, owing to the principles agreed between the Council and CCH prior to the tenants' ballot. An increase in the valuation would, in any event, only result in a reduction of the amount of debt to be written off by the Government and would not be beneficial to any of the parties.

RESOLVED – (1) That the report be noted.

(2) That a report setting out and clarifying the precise financial implications for the Council of the housing stock transfer, as based on the currently envisaged assumptions and expectations, be presented to the next meeting of the Committee.

06.HTC.21 DATE OF NEXT MEETING

The Members noted that the next meeting of the Housing Transfer Committee was scheduled to be held on Tuesday, 7 November 2006 in the Committee Room, Town Hall, Chorley at 5:00pm.

Chair