DURHAM COUNTY COUNCIL

ECONOMY AND ENTERPRISE OVERVIEW AND SCRUTINY COMMITTEE

At a Meeting of the **Economy and Enterprise Overview and Scrutiny Committee** held in **Committee Room 2 - County Hall, Durham** on **Wednesday 28 September 2011 at 9.30 am**

Present:

Councillor J Moran (Chair)

Members of the Committee:
Councillors A Naylor, B Arthur, A Barker, B Graham, J Hunter, P Jopling, J Rowlandson, P Stradling and M Williams

Co-opted Members:
Mr T Batson, Mrs O Brown, Mr D Lavin and Mr JB Walker

Apologies:
Apologies for absence were received from Councillor(s) J Armstrong, C Carr, J Cordon, B Harrison, R Liddle, B Sloan, Andy Turner, M Wilkes, A Willis, Mrs A Harrison and Mr A Kitching

Also Present:
Councillor(s) C Robson

A1 Declarations of Interest, if any

There were no Declarations of Interest.

A2 Stock Options Appraisal:

The Principal Overview and Scrutiny Officer, Stephen Gwillym reminded Members that at a previous meeting of the Economy and Enterprise Overview and Scrutiny Committee, Councillors had asked for further information relating to the Stock Option Appraisal for the County Council. The Principal Overview and Scrutiny Officer explained that Members comments from the Special Meeting would be fed into the ongoing consultation exercise.

The Chair thanked the Portfolio Holder for Housing, Councillor C Robson and the Head of Housing, Glyn Hall who were in attendance to answer any queries from Members. The Chair also introduced the Housing Stock Options Manager, Marie Roe was in attendance to give Members an overview of the Stock Options Appraisal (SOA) process and also the outcomes so far, especially in relation to consultation (for copy of presentation, see file of minutes).

The Housing Stock Options Manager explained that Durham County Council (DCC) was landlord for around 19,000 homes with the housing management arrangements being one in-house management organisation (IHMO) Durham City Homes (DCH) managing around 6,100 homes, together with two arms-length management organisations (ALMOs) comprising of East Durham Homes (EDH) managing around 8,500 homes and Dale and Valley Homes (DVH) managing around 4,300 homes.

The Committee noted that in the past funding arrangements for Council Housing were such that rents and capital receipts were collected by Local Authorities and paid into a central fund administered by Central Government which in turn was then allocated to back to Local Authorities. Members were informed that in some cases, this had led to some Local Authorities receiving a "negative subsidy" whereby they received less from Government than they paid into the scheme, with the amount this financial year for DCC being around £4.5 Million less than paid in by the Authority.

The Housing Stock Options Manager confirmed that it was Government's intention to move to "self-financing" from April 2012 and that the new system would be dependent upon Local Authorities being allocated a one-off "debt settlement" which in the case of DCC would be around £216 Million. The Committee noted that this would also in effect limit the ability for the Council to borrow money to enable investment into the Housing Service, Stock, Maintenance or Repairs as Government were driving to reduce the national budget deficit, putting a cap on borrowing at the £216 Million level.

Councillors were informed that in order to be able to set out how the Council would be able to repay its debt settlement and make the required investment in homes and services, a 30 year business plan was needed to ensure that the service would be "fit for purpose" as well as sustainable in the longer term. The Housing Stock Options Manager explained that accordingly an SOA was required and that it was agreed with stakeholders that this would be open and transparent and would involve customers at the heart of any decision making process.
The Housing Stock Options Manager admitted that the issues were very complex and therefore it was felt appropriate to appoint specialist advisers, in accordance with Government Guidance, to help guide the Authority through the SOA and to explain the best options for Durham to both the Authority and the stakeholders. Councillors learned that Consult CIH and their partners Savills were appointed in relation to the 30 year Financial Business Plan and Stock Condition Survey, with Trowers and Hamlins Solicitors appointed to look at the relative merits and implications of the several options available to the Authority. Members noted that the process had several elements:

- Stock Condition Survey – to determine required investment levels
- Definition of the SOA Project Objectives
- Establishing relationships with key stakeholders
- Identifying the Options available
- Consultation on those Options
- Taking a Decision on an Option

The Committee were reminded that in December 2010, Savills carried out a Stock Condition Survey based upon representative samples of stock from DCH and DVH and also validated the data held by EDH on the condition of their housing stock, noting the information as being "robust".

Members noted the results showed that DVH and DCH stock had benefited from sustained investment and that the EDH stock would be the main area for investment in the first 5 years of the Business Plan in order to give an overall "Decent Homes Standard" across all of the Council homes, around £105 Million. The Housing Stock Options Manager added that the overall investment for all stock over the 30 years of the Business Plan was in the region of £797 Million, equating to around £40,000 per property and was in line with the national average. Councillors were reminded that EDH was entitled to "backlog funding" in relation to decent homes works and was awarded almost £70 Million in January 2011, though this still left a shortfall in relation to the amount estimated to deliver the improvements to the EDH stock. The Housing Stock Options Manager noted that there was a need for consistency in the long term for renewals and maintenance, however the investment needs for EDH fell in years 1-5 and for DCH and DVH in years 6-10, placing pressure on the Business Plan. Members were referred to a graph that demonstrated that for years 1-10 there was a required spend of £388 Million, that included the £70 Million "backlog funding", and this was a shortfall of around £55 Million based on the £333 Million resources available over that period. Councillors noted that the £55 Million would rise to around £63 Million adjusted for inflation.

The Housing Stock Options Manager explained to the Committee that eight key objectives had been agreed with stakeholders through consultation, namely:

- Bringing long term funding to support the improvement and repair of high quality affordable homes
- Improving communication between the owning organisation and customers
- Protecting Tenants' rights
- Strengthening customer involvement in services
- Delivering a good return of new social housing
- Achieving comparable quality between council owned homes and those of housing associations
- Local presence and management of housing services
- Meeting regeneration needs

Councillors learned that a Customer Working Group had been established, that included 3 customers from each of the areas and a leaseholder, and the Group had responsibility for the procurement and management of an Independent Tenant Adviser (ITA), Engage Associates and for the development of a Communication and Consultation Strategy and Tenant Empowerment Statement. The Housing Stock Options Manager noted that in addition to this, a Stakeholder Steering Group consisting of 3 DCC Councillors, 3 Officers, 1 from each Management Organisation and 10 customers had been established. Members were informed that the responsibilities of this Group included the overseeing of progress in relation to the SOA; ensuring project objectives were observed; making recommendations to DCC for decision; and focus on the options available via a "jury session". Councillors noted there was a full Governance Framework that was available should Members wish to have further information.

The Committee learned that from the “jury session”, it was agreed to consult on:

- Retention of the stock and possible efficiencies
- Conventional transfer of the Stock – via a Large Scale Voluntary Transfer (LSVT)
- Unconventional transfer – via a Council owned Community owned organisation (CoCo)
- Or a mix of options and models

The Housing Stock Options Manager explained that Engage Associates led on the consultation with various events taking place, over 100, including use of theatre groups. Members learned that the Housing Stock Options Manager led as regards events for Board Members, Councillors and Staff. The Committee noted that from these events the key issues were:

- Transfer of stock was broadly supported as the best option for accessing additional finance
- Retaining organisational identity was important
- Transfer was not a certainty, the Department for Communities and Local Government (DCLG) may not agreed and the Council would need to be prepared should that be the case
- The CoCo model makes good use of existing arrangements and would enhance customer involvement
- The Coco model has not been tried and test, a potential risk
- Outcome of any ballot of Tenants may be influenced by Customer understanding and perception of the Authority

The Housing Stock Options Manager added that any transfer would be conditional upon the value of the stock and distribution and that there had been concerns raised by Housing Staff as regards what stock retention could mean in terms of efficiency savings impacting upon jobs and services. Councillors noted that if the option for transfer was not taken forward, the options for retention included:

- Retaining the three existing organisations
- Reducing to two organisations, merging DCH and DVH
- Reducing to one organisation and preserving local delivery arms

The Housing Stock Options Manager concluded by noting the next steps in the process, those being:

- Completion of the consultation, drawing conclusions
- Continuing negotiations with DCLG on self financing and determine their thinking on stock transfer
- Continued work with the 3 organisations to ensure that there is a “Plan B” should DCLG not support the option of stock transfer
- To undertake further work on debt apportionment and on the feasibility of future housing provider organisations
- To prepare a report for Cabinet for December 2011 setting out the findings of the SOA, the outcomes of the consultation and the next steps the Authority could make.

The Chair thanked the Housing Stock Options Manager and introduced the Director of Financial Policy and Development, Consult CIH, Steve Partridge to speak in relation to the financial implications and options available to the Authority.

The Director of Financial Policy and Development noted that the Head of Public Sector - Communities and Governance, Trowers & Hamlins Solicitors, Ian Doolittle would speak as regards the legal and organisational ramifications of the various options available, and that he would concentrate upon the issues of self financing and the implications of each model accordingly.

Members had already learned from the previous presentation of the current financing arrangements and the move to self financing of the Housing Revenue Account from April 2012 and the Director of Financial Policy and Development explained that the indicative settlement from Government was around £216 million, a "Tenanted Market Value", although this could change in the final determination in November 2011. Councillors acknowledged that the rent levels for the 3 organisations averaged at £59.38, £1.70 below target and the management costs and day to day revenue maintenance spend were around £17 Million and £12 Million respectively.
Members were reminded that there were already a number of efficiency savings built into the organisations through the implications of the Authorities Medium Term Financial Plan (MTFP).

The Director of Financial Policy and Development reiterated that the capital investment required over the next thirty years was £797 Million, noting that approximately 50% of the spend would need to come in years 1-10 and the other 50% in years 11-30 and that all scenarios looked at, the £70 Million of backlog funding was assumed. Members heard that the settlement valuation set a borrowing cap, though the Authority would benefit as in being a large Council it could secure low interest rates on any borrowing.

The Committee were referred to a graph setting out the capital expenditure need and the capital finance available over the 30 years of the proposed business plan and noted the small shortfalls in years 1-5, the great shortfalls in years 6-10, a surplus in years 11-20 and stability in the final 10 years of the plan. Members were aware that whilst on paper it may be possible to defer some of the issues for 10 years until the surplus was available, in real practical terms it would mean that some properties would not see investment for 20 years which was unacceptable. The Director of Financial Policy and Development explained that business plan assumed that all of the available headroom would be used in trying to meet needs, however, borrowing would be capped for many years. The Committee were informed that the move to self financing was potentially better to the Authority, over the 30 years in cash terms, by an amount of around £440 Million in comparison to the old subsidy system and that the real challenge was managing the pattern of spending needs and debt cap in order to meet needs and so that regeneration was not constrained.

The Director of Financial Policy and Development explained that work had identified a series of options and that multiple combinations had been narrowed down to the workable options and then further to a smaller number of possible combinations by looking at: the number and shape of providers; who owns the stock and the options for the stock itself.

Councillors learned that there was the option to maintain one provider or to combine back office, or frontline services, or both into one of two providers and in relation to stock there was the retention of the stock as existing via ALMOs/IHMO, a conventional LSVT or transfer to a CoCo.

Members noted that a detailed Asset Management analysis was being undertaken by Savills and this would indicate the options as regards the local management of the stock.

The Director of Financial Policy and Development explained that in order to give a business plan that was viable in terms of self financing then there would need to be further efficiencies of around £2 Million each year over the 30 year period, though deferral of investment in the stock would carry risks of further deterioration and placing limited on possible regeneration.

The Committee noted that one of conditions of Transfer being approved by Government would be similar levels of investment as currently and that there was still uncertainty on issues such as taxation, especially VAT, that could lead to an adjustment of around £66 Million. Members were informed that if the stock was valued as per the existing LSVTs in the County, then the valuation of £5.6 Million would require virtually all debt to be written off and noted that in recent transfers the Government had pressed on the issue of the VAT shelter, if added back in at a valuation of around £56 Million this would require an overhanging debt clearance of £160 Million, with the VAT adjustment being only £66 million as previously noted. The Director of Financial Policy and Development explained that there would need to be further support, whether that be from Government, the Council or purchasing providers.

The Chair thanked the Director of Financial Policy and Development and asked if the Head of Public Sector - Communities and Governance, Trowers & Hamlins Solicitors, Ian Doolittle could now speak to the Committee as regards the options available to the Authority. Members noted that the Head of Public Sector - Communities and Governance had the task as a Lawyer to look at the implications of the 3 main options available and set out the advantages and disadvantages of each.

Councillors noted that the first option of stock retention had the advantage of not requiring a ballot of Tenants as no transfer of stock would take place, however, consultation would still need to take place and Government guidance on this was due shortly. Members noted that there could be issues of possible TUPE transfer for staff if ALMOs were taken back "in house" or reorganised, though these would be predictable on the whole. The Head of Public Sector - Communities and Governance added that the retention of the stock would currently not require any further Government consent under Section 27 of the Housing Act 1980 and that existing management agreements would need to be varied or terminated. The Committee learned that Tenants' rights would be unaffected and there would be likely minimal service disruption. However, the Head of Public Sector - Communities and Governance was keen to stress that the major disadvantages of stock retention were the inability to access private sector finance above the self financing borrowing cap, there would only be a basic business plan delivered and there would be limited scope for effective asset management.

The Committee noted that a LSVT was a tried and tested option, allowed access to borrowing above the self financing cap and avoided financial and policy risks inherent in the self financing regime. Members noted that another advantage would be the ability to use the "ALMO" brand to mitigate TUPE issues or to affect a transfer to an existing well resourced Registered Provider.

The Head of Public Sector - Communities and Governance explained that the disadvantages were that there would be need for a ballot of Tenants and Government consent, there was uncertainty relating to sufficient support from Government via policy in relation to debt repayment to be able to achieve fundable valuation for all of the stock and that there would be substantial set up costs, including funding fees. Members noted that in this option existing Management Agreements would be replaced by Transfer Agreements and the Council would only have a minority interest in transferees.

The Committee learned that the option of transferring to a CoCo had several advantages including affording access to private finance over the borrowing cap, avoids Government restrictions currently in place for LSVTs by leaving self financing debt in place at Public Works Loan Board (PWLB) rates and creates a structure that is inherently a partnerships between the Council and Communities, rather than a separation. Members were keen to note that there were also disadvantages to the CoCo model in that the options was novel and had not clear policy guidance from Government and that the Transferee's obligation to service the self financing debt limits the scope for raising additional finance. Councillors were informed that the Authority would need to be comfortable with the debt arrangements, parting with stock whilst retaining the debt. In addition, the Head of Public Sector - Communities and Governance explained that whilst the set up costs of a CoCo would be less than a LSVT, they would still be significant.

The Chair thanked the Head of Public Sector - Communities and Governance and asked if the Portfolio Holder wished to comment prior to Members' questions. Councillor C Robson noted that the issues were complex, sensitive and emotive and that the Team working on the SOA, together with Consultants, was doing an excellent and thorough job obtaining the best advice possible. Councillor C Robson noted that a difficulty was being able to explain to the public the advantages of moving to different arrangements given the high levels of performance from the ALMOs/IHMO and this challenge was an important one. The Head of Housing added that Members had now been given a comprehensive picture of the current position and the next steps in the process.

Councillor P Stradling asked whether there was any timescales in clarity being given by Government in relation to the several policy issues speakers mentioned. The Director of Financial Policy and Development explained that Government had indicated that it was willing to look at the merits of any stock transfers on a case-by-case basis and that guidance relating to VAT issues were due "Autumn", however the exact date was not known.

Mr JB Walker noted that there was inherent risk in going to private finance, citing Southern Cross as an example where problems could arise. The Director of Financial Policy and Development explained that hedge funds and the like would not be the source of additional borrowing, rather a limited number of well established banks that already lend to Housing Associations such as RBS, Lloyds, Barclays and several others and that a CoCo model would have advantages of being able to borrow at low interest rates.

Mr T Batson noted that there were issues that any merging of existing organisations could lose the local representation people have come to cherish and asked if the retention option could have affects on other issues such as the Council Tax rate.

The Housing Stock Options Manager explained that there were several issues that needed to be taken into account during the process and that an example of a difficulty in being able to communicate to customers was when a event was organised at Sherburn Sports Centre where 25 customers had been asked to attend to speak to the Independent Tenant Adviser and nobody turned up on the day as it was on the day that the decisions regarding the future of Leisure Centres across the County had been announced. Members acknowledged that in the change to Unitary status, moving through the MTFP and the reductions in funding from Government it would be challenging to engage and explain the options as available in relation to the Council's Housing Stock. The Housing Stock Options Manager added that if stock was retained, DCH and DVH have noted that they could envisage a merger between the two being viable. The Director of Financial Policy and Development reminded Members that there was no subsidy of Council Housing through Council Tax, rather it was subsidised via rents and RTB receipts.

Mr D Lavin asked if there could be an estimate placed upon the cost of a TUPE transfer should housing stock be retained and whether there would be any options where a CoCo would not be used as it had not stood up when considered by the former Derwentside District Council. The Head of Public Sector - Communities and Governance estimated that, based upon figures of around 1-2% of the facility, giving a rough figure of around £2 Million. The Director of Financial Policy and Development noted the point regarding the CoCo for Derwentside, however, he added that the tougher financial climate meant that such options to enable borrowing beyond the self financing cap were required at least for consideration.

The Principal Overview and Scrutiny Officer summed up noting that the Committee's views in terms of the ongoing consultation would be noted, that the Committee endorsed the ongoing work and that Members' concerns as regarding the models being consulted upon being clearly explained to customers would also be taken onboard by the SOA Team.

Resolved:

(i) That the reasons for the Stock Option Appraisal and the findings of the Stock Condition Survey and Financial Analysis be noted.

(ii) That the views expressed by Members in relation to the Council's proposal to transfer the housing stock and proposed combination of models for implementation be noted and fed into the ongoing work of the Stock Option Appraisal Team.