

Economy and Enterprise Overview and Scrutiny Committee

22 September 2014



Housing Stock Transfer Project

Report of Ian Thompson, Corporate Director, Regeneration and Economic Development

Purpose of the Report

- 1 To provide members of the Economy and Enterprise Overview and Scrutiny Committee with a further update in relation to the progress of the Housing Stock Transfer Project.

Background

- 2 At its meeting held on 12 December 2012, the Cabinet received a report which detailed the findings of its Housing Stock Options Appraisal. At that meeting Cabinet agreed to select the large scale voluntary transfer of its housing stock to a group structure of its existing housing management organisations as its preferred option for the future financing, ownership and management of its homes.
- 3 The Economy and Enterprise Overview and Scrutiny Committee have received regular update reports on the progress in implementing the council's preferred option for the future of its housing since 2012.
- 4 The most recent update was provided to committee on the 7 April 2014, when members received confirmation that the Council had achieved a place on the Government's housing stock transfer programme. At the same time, the Council also received a commitment from the Government to reduce the authority's housing debt.
- 5 The Economy and Enterprise Overview and Scrutiny Committee were advised on the 7 April 2014 that the Department for Communities and Local Government (DCLG) has asked the Council to complete the transfer of its homes by the 31 March 2015, if it is to access the financial support it has requested.

Current Position

- 6 In April 2014, the Homes and Communities Agency (HCA) confirmed that the Council was able to proceed to formal consultation with all of its secure and introductory tenants on the transfer proposal.
- 7 Statutory guidance that outlines the steps the Council had to follow to undertake formal consultation on its transfer proposal is set out in the

Government's publication "Statutory Guidance: The Housing Act 1985 - Schedule 3A".

- 8 The Guidance sets out a formal two stage consultation process; the language and tone that should be used in the formal consultation; the conduct and timing of the ballot of all secure and introductory tenants; the Council's post ballot tasks and the rights of interested parties to make representations about the transfer proposal to the Secretary of State throughout formal consultation and the ballot period.
- 9 The DCLG and the HCA asked the Council to present an accurate picture to its tenants about its transfer proposal and the implications of staying with the Council as part of the consultation process. It was made clear to the Council that if it is to achieve final Secretary of State consent and access financial support for the transfer it must demonstrate that throughout formal consultation on the proposal all tenants have been:
 - Fully informed of the transfer proposal;
 - Encouraged and able to vote on the proposal in a confidential ballot;
 - Able to access independent and impartial advice on the transfer proposal provided by an Independent Tenant Adviser.
 - Able to participate in consultation on the proposal and to express their views.
- 10 The Offer Document represents the first stage in the formal consultation process (officially known as Stage 1). The Offer Document explains the Council's proposal to transfer its homes; the reasons behind the proposal; the implications of the transfer for tenants; and the changes and improvements to homes, neighbourhoods and services tenants can expect if the transfer was to go ahead.
- 11 The Offer Document is central to the formal consultation process. It provides all secure and introductory tenants with information on the reasons behind the proposal; and potential implications of the transfer for tenants to support them in expressing a fully informed opinion at the ballot in Stage 2 of the formal consultation process
- 12 The Council's Offer Document was developed in partnership with stakeholders and was agreed by Cabinet on the 7th May 2014.
- 13 The document (alongside a package of information) was hand delivered to all of the Council's 22,000 tenants by staff members between the 2nd June 2014 and the 6th June 2014. The hand delivery was followed up with a further home visit in the week commencing the 16th June 2014 and a series of drop in sessions for tenants to meet and discuss the transfer proposal. A freephone helpline (run by Open

Communities the Independent Tenant Adviser) was also made available to tenants during the consultation.

- 14 The Offer Document invited representations from tenants and leaseholders over a period of 28 days. The Offer Document pack included a free to post response card which allowed tenants to express their views. The pack posted to leaseholders included a tear off sheet for leaseholders to express their views. Tenants and leaseholders were also able to express their views by e-mail or by phone. The representation period ended at midday on Monday 7 July 2014.
- 15 The Council received 1374 responses from tenants and 6 responses from leaseholders to the Offer Document. 540 responses included handwritten comments from tenants and 6 handwritten responses were received from leaseholders that ranged from questions about the transfer proposal to statements that the provision of a comment is “Not Applicable” (N/A) or “no comment”. The individual responses and comments received from tenants were deposited in the Members Library for consideration.
- 16 The comments, suggestions and views expressed by tenants during the first stage of the consultation indicated that the Council’s transfer proposal and the offers set out in the Offer Document should not be changed or amended.
- 17 On the 16th July 2014, the Council’s Cabinet decided they were satisfied with the outcomes of the consultation process. Cabinet agreed to proceed to the second stage of formal consultation (Stage 2) which included a ballot of all secure and introductory tenants on the transfer proposal.
- 18 The secret ballot of all the Council’s secure and introductory tenants was undertaken independently by Electoral Reform Services (ERS) from the end of July 2014.
- 19 The ballot provided a variety of ways for tenants to vote, all of which were controlled and managed by ERS:
 - Postal vote
 - SMS text
 - Online (via the internet)
 - Telephone
- 20 The ballot ended at midday on Monday 18th August 2014:
 - The total number of votes cast was 11,316 (a turnout of 51.2%).

- 157 ballot papers were found to be invalid. Therefore 11,159 votes were counted as being valid.
 - 9149 tenants voted “yes” to the transfer proposal (82% of the valid vote).
 - 2010 tenants voted “no” to the transfer proposal (18% of the valid vote).
- 21 The Council’s Cabinet received a report on the outcomes of the ballot and next steps in the transfer process on the 10th September 2014. If the Council decides to proceed with the transfer the Council will need to meet statutory requirements of the Secretary of State for Communities and Local Government to transfer homes, and complete the transfer by the end of March 2015.
- 22 There is a significant amount of work to complete if the proposed new County Durham Housing Group are to be successfully established and registered as providers of social housing with the HCA by the end of March 2015. In order to meet challenging timescales and achieve the transfer by the end of March 2015 the Council and the proposed new group of landlords will work closely together.
- 23 A Transfer Agreement between the Council and the proposed new group of landlords should also be developed. The Transfer Agreement is usually a detailed document which would be made up of a number of different schedules that include:
- A series of schedules and contracts agreeing the transfer of land and other assets to the proposed new housing Group.
 - A Deed of Covenant which underpins the delivery of the promises set out in the Offer Document.
 - Service Level Agreements between the Council and the proposed new housing group.
 - Development Agreement.
 - Transfer of Undertakings and Protection of Employment (TUPE) transfer issues for staff affected by the transfer proposal.
- 24 The Council would also continue to consider the implications of the transfer on the services it would be responsible for (should the transfer go ahead) and how it could work with the new group of landlords to achieve its wider strategic objectives for County Durham.

Recommendations

- 25 That the members of the Economy and Enterprise Overview and Scrutiny Committee note and comment upon the information provided in the report.
- 26 That the Economy and Enterprise Overview and Scrutiny Committee continue to receive further progress updates in relation to the development, impact and delivery of the new arrangements for housing in County Durham.

Background papers:

Reports to Cabinet on 10 September 2014 – Housing Stock Transfer Outcomes of stage 2 – Principles of Transfer.

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Appendix 1: Implications

Finance

The Council is currently operating within a HRA self-financing debt cap of £245m (as of April 2012). This debt cap has almost been reached and the Council is therefore unable to borrow any further to invest in areas such as new build housing development. The proposed housing stock transfer will enable the new group of landlords to borrow additional funds to invest in housing, regeneration and support services for tenants. In order to qualify for debt write-off, Government have however directed that the transfer must be completed by 31 March 2015.

Transfer will come at a cost to the Council and previous reports have identified an annual cost to the General Fund of £3.6m. Provision for this cost has been built into the latest MTFP Model which identifies this loss of income from 2015/16 onwards. Failure to proceed with the transfer process would mean that the Council would continue as landlord which would mean a continuation in the Council's borrowing abilities which would affect investment in homes, neighbourhoods and services.

Implementing stock transfer will incur costs for both the Council and the proposed new housing group in the development of the Transfer Agreement and the establishment of the proposed new group landlords, which is estimated to be in excess of £4million.

Staffing

Detailed work continues on the impact of the proposed transfer on the Council's services and staff associated with Council housing and its support. This work is being undertaken by Human Resources and Legal Services in full consultation with potential staff affected. Staff potentially affected by a TUPE transfer either from the Council or within the proposed new group of landlords will be fully informed and consulted with as part of the formal TUPE consultation.

Risk

The transfer of the Council's homes must be planned and managed effectively by both the Council's transfer team and the transfer team of the proposed new group of landlords to ensure the challenging deadline is achieved by the end of March 2015.

Equality and Diversity

The formal consultation process has provided all individuals and organisations with an interest in the future of the Council's housing stock with the best opportunity to express their view on the transfer of the Council's homes in County Durham. The formal consultation process has been delivered through the implementation of a communication and consultation plan and active tenant engagement in the development of the Offer Document.

The Offer Document makes specific provisions for:

- Tenants with a disability
- Elderly tenants
- Young tenants
- Tenants experiencing problems with managing money and debt
- Improving quality of life for tenants across the county

According to the Equality Impact Assessment undertaken on the proposed transfer it will impact on protected characteristics. Impacts in terms of stock transfer are positive, as accessing additional funding will improve housing, neighbourhoods and services and will stimulate the local economy. This may be particularly beneficial for women who have an increased demand for social housing and disabled and older people who require homes to meet specific housing needs. Younger people and people raising a family will also benefit from an improved social housing offer resulting from stock transfer. Transfer may also enable access to additional funding to strengthen and improve tenancy support services to mitigate the effects of welfare reform.

Accommodation

The proposed new group of landlords will continue to work with the Council to identify suitable accommodation for the proposed new County Durham Housing Group Limited ahead of the transfer deadline.

Crime and Disorder

None

Human Rights

None

Consultation

Formal consultation has been undertaken with all secure and introductory tenants, providing an opportunity for 21,908 tenants and 193 leaseholders to comment and vote on the Council's transfer proposal.

Procurement

None.

Disability Issues

None

Legal Implications

There is a clear process for the transfer of homes set out in the Government's Housing Transfer Manual. The transfer of homes can only go ahead if the Council observes the outcome of the ballot that a majority of tenants voting in the ballot voted in favour of the proposal.

The transfer process will continue to be supported by the Council's legal advisers for stock transfer and the proposed new group of landlord's legal advisers. The Council's legal services will work closely with Council advisers to ensure the Council's interests are protected throughout negotiations with the proposed new group of landlords and that any commercial deal agreed

with the proposed new group is properly documented in a Transfer Agreement.