

Economy and Enterprise Overview and Scrutiny Committee

20 February 2015

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 The Economy and Enterprise Overview and Scrutiny Committee have received regular update reports on the Council's plans to transfer the ownership of its housing stock to the new County Durham Housing Group which will be made up of its existing housing management organisations.
- 3 The most recent update was provided to committee on the 15 December 2014, when members received details of progress in the establishment of the new Group and next steps in the transfer process.
- 4 The Economy and Enterprise Overview and Scrutiny Committee are reminded 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 requires.

Current Position

- 5 The Economy and Enterprise Overview and Scrutiny Committee were advised on the 15 December 2014 of the significant amount of work that is being completed by the Council and the County Durham Housing Group in order to complete the transfer within the timescales set by the Government. The following key pieces of work have been completed:
 - Conversion of the council's existing housing management organisations into Community Benefit Societies.
 - Registration with the Financial Conduct Authority (FCA).
 - Registration with the Homes and Communities Agency (HCA) of all the member organisations of the County Durham Housing Group as intending Registered Providers.

- The appointment of an Executive Management Team for the County Durham Housing Group.
 - The identification of a preferred funding partner for the County Durham Housing Group and the development of a Funding Agreement (Barclays and M&G).
 - Identification of an office for the County Durham Housing Group Ltd. The parent organisation will be located in Seaham.
 - The development of a Transfer Agreement between the Council and the Group is ongoing and will be completed by the scheduled transfer date which is 23 March 2015.
 - Mapping, searches and the provision of warranties for land that will transfer to the County Durham Housing Group.
 - Cabinet agreement to seeking final consent from the Secretary of State (DCLG) for the transfer to take place. Cabinet received a report recommending an application be made for this consent on the 11 February 2015.
 - Completion and signing of the Transfer Agreement and Funding Agreement which will complete the transfer process.
- 6 Monitoring of progress against the transfer project plan is managed through a series of project governance arrangements, which bring together representatives of the Council and the new Group.
- 7 Progress and key issues are highlighted and addressed at monthly joint meetings. The process has intensified as the transfer deadline approaches with the final stages in the process about to be completed. Concluding respective agreements, warranties and indemnities with the new Group's funders will dominate the final stages, prior to the achievement of Government consent to the transfer.

Transfer of Land and Assets

- 8 The transfer of assets and land continues to be discussed as part of the transfer project. In September 2014 Cabinet agreed the approach that will be taken to separation of the housing stock from the Council. The principles behind the transfer of assets and land were based upon the principles and experiences evidenced within former district councils who pursued housing stock transfer in County Durham prior to 2009.
- 9 Cabinet agreed that any changes or deviations from the principles agreed by Cabinet could be negotiated by the Council's Corporate Director Regeneration and Economic Development and Corporate Director Resources, in consultation with the Portfolio Holder for Regeneration.
- 10 Principally the land that will be transferred to the new Group forms part of the Housing Revenue Account. This will support the new Group in undertaking the neighbourhood and environmental improvements promised by the Council as part of its Offer Document. A small proportion of General Fund land will also be included in the transfer. This land was acquired, in most circumstances, for housing purposes by the former district council's in the area.

- 11 A separate 'Development Agreement' will be prepared for agreement between the Council and the new Group, which will sit alongside the traditional transfer agreement and will clarify development requirements.

Warranties

- 12 The new Group will require the Council to provide warranties relating to the property that will be transferred. A warranty is a declaration that the information the Council has provided on the transferring land and properties is correct.
- 13 The Council will provide the warranties to both the new Group and its funders. This will give both significant assurances that there are no matters in connection with the land and property that is transferring that could cause either the Group or its funders any loss. It is a usual commercial requirement in transfers for the Council to provide separate warranties to both the purchaser (in this case, the County Durham Housing Group) and its funders.
- 14 The Council will purchase insurance to provide financial protection against certain environmental warranty claims, should they occur.
- 15 The Council continues to employ specialist legal conveyancers and support teams to map out the land and properties that will transfer to the new Group and complete the required searches to provide the necessary warranties for the Group to take ownership of land. The Council's team continue to work closely with the County Durham Housing Group to review proposed sites and discuss emerging issues based on the report Cabinet received on the 10 September 2014 which set out the principles of land transfer.

Service Level Agreements

- 16 The Council and the Group have focused their attention on the completion of the transfer process and the seamless transition of housing services from the Council's ownership to the new Group.
- 17 A suite of Service Level Agreements (SLAs) have been developed in partnership with the Council, which set out the services the Council will continue to provide to the Group for an agreed period following transfer.
- 18 The SLAs are intended to support the new Group in continuity of service as it completes the transfer successfully; and ensures high quality housing services continue to be delivered to customers. The SLAs will also allow the new Group the time to review its business needs, determine its resources and make decisions on the future delivery of its services.

- 19 In the future, the new Group will be required by its regulator (the Homes and Communities Agency) to consider value for money in its contracts and SLA arrangements. The Group will work with the Council to review the impact SLAs have on Council services and determine the best course of action for future service provision.

Transfer of Undertakings and Protection of Employment (TUPE)

- 20 Officers from Durham County Council, Dale and Valley Homes, and East Durham Homes and the County Durham Housing Group continue to work together to consider the implications for employees transferring from the Council into the new Group or within the Group.
- 21 Council employees who are assigned or otherwise essentially dedicated to the delivery of council housing services, or directly support its delivery at the point of transfer, have been identified.
- 22 Around 200 Durham County Council employees will be affected by the transfer and therefore subject to the provisions of TUPE. Over 100 employees will transfer to the County Durham Housing Group Ltd, including the Durham Housing Repairs and Maintenance Direct Labour Organisation and the strategic landlord and corporate support functions. Over 80 employees will transfer from the Council's housing management functions to the newly established Durham City Homes, and 3 employees currently employed by DCC but seconded to East Durham Homes, will have their employment transferred to EDH.
- 23 The majority of employees currently working for the Council's arms-length housing management organisations (Dale and Valley Homes and East Durham Homes) will not be impacted by TUPE, as they are already employed directly by those organisations and this will continue to be the case under the Group arrangement.

Pensions

- 24 Under TUPE regulations the pay, terms and conditions of TUPE transferred employees will be protected. In line with practice in previous stock transfers in Durham, it has been agreed that the four organisations forming the County Durham Housing Group will join Local Government Pension Scheme (LGPS). Each organisation will be 'Admitted Bodies' and employees will continue to have access to LGPS on an 'open scheme' basis.
- 25 Admission agreements are in development, which will allow the employers within the Group to participate in the Pension Fund.
- 26 The Council has a long term strategy for dealing with pension contributions and liabilities including any deficit. Pension deficit payments are made annually and the budgets currently set aside for this will be transferred and retained by the new Group. This element of expenditure has been included in the Group's business plan and is reflected in the sale price of the housing stock.

Developing the Final Transfer Agreement

- 27 It is usual as part of any housing stock transfer proposal for discussions and negotiations to be undertaken on behalf of the Council and the new organisation up until the point of transfer.
- 28 Every effort will be made to ensure transfer details are agreed at the earliest opportunity, but there will be a need for continuing dialogue and negotiations up until the day of transfer, which is scheduled for the 23 March 2015.

Secretary and State Consent

- 29 The transfer can only complete if the formal consent of the Secretary of State for Communities and Local Government is provided under the terms of sections 32-34 and 43 of the Housing Act 1985. A formal application to seek that consent must be submitted by the Council a minimum of four weeks prior to the proposed transfer date. The Council plans to submit its application by the 23 February 2015.
- 30 At the same time, the Council will also seek consent to transfer any remaining assets in the Housing Revenue Account (HRA) to General Fund accounts and authorities and to close the HRA.
- 31 Engagement with both the DCLG and the HCA has been maintained by the Council, both throughout the options appraisal process prior to the Secretary of State granting consent to the Council to commence formal consultation with tenants and onwards and since the announcement of the tenants' ballot result in late summer 2014. Therefore both the DCLG and HCA fully expect to receive the Council's application by the 23 February 2015.

Recommendation

- 32 That the members of the Economy and Enterprise Overview and Scrutiny Committee note and comment upon the information provided in the report.

Background papers:

- Durham County Council Cabinet Report 12 December 2012
- Durham County Council Cabinet Report 30 October 2013
- Economy and Enterprise Overview and Scrutiny Committee Report 22 September 2014
- Economy and Enterprise Overview and Scrutiny Committee Report 15 December 2014

Contact: Marie Roe, Housing Directions Manager
Tel: 03000 261 864 **E-mail:** m.roe@daleandvalleyhomes.co.uk

Appendix 1: Implications

Finance

Previous reports have detailed the financial implications to the Council and The General Fund as a consequence of transferring stock to County Durham Housing Group. The expected cost to the General Fund is estimated to be £3.550m and this has been accommodated into the MTFP and annual budget for 2015/16.

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 County Durham Housing Group 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 County Durham Housing Group Ltd has selected an office in Seaham. Negotiations on the take up of a lease continue. Dale & Valley Homes, Durham City Homes and East Durham Homes will remain in their existing accommodation as per the promise of local access made in the Offer Document.

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 requirements as set out in the Housing Act 1985 in terms of obtaining the consent of the Secretary of State to the transfer and the provision of other required information (i.e. warranties).

The transfer process will continue to be supported by the Council's legal advisers for stock transfer and the County Durham Housing Group's legal advisers.