

**AGENDA ITEM**

**REPORT TO CABINET**

**14<sup>th</sup> JANUARY 2010**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

**CABINET/KEY/COUNCIL DECISION**

***Housing and Community Safety – Lead Cabinet Member – Councillor Steve Nelson***

**HOUSING FUTURES (OPTIONS FOR FUTURE INVESTMENT)**

1. Summary

To provide Members with a progress update regarding the 'Housing Futures' project.

To seek Member endorsement, subject to Ministerial approval and approval in principle of debt write-off, to proceed with formal tenant consultation regarding the proposed transfer of homes from the Council to a new-style Tristar Homes (Stage 1: issuing of the 'Offer' document and Stage 2: proceeding to 'ballot').

Recommendations

1. Subject to Secretary of State approval that 11 park and cemetery lodges are transferred and appropriated using powers in Section 19 of the Housing Act 1985 from the Housing Revenue account to the General Fund.
2. Subject to receiving ministerial approval and approval in principle regarding the write-off of housing debt (as summarised in the report) that formal tenant consultation is carried out with tenants on the transfer proposal.
3. Members approve the draft Offer document and recommend endorsement at Council.
4. Subject to the above, delegated authority be given to the Corporate Director of Development and Neighbourhood Services to make any final revisions to the Offer Documents (prior going to print) in consultation with the Cabinet Member for Housing and Community Safety.
5. That delegated authority be given to the Corporate Director of Development and Neighbourhood Services to consider comments received following the issuing of the Stage 1 consultation (Offer document to tenants) and to determine whether any changes are required, in consultation with the Cabinet Member for Housing and Community Safety.
6. Following the above, to authorise the Corporate Director of Development and Neighbourhood Services to make a final decision on whether to proceed to ballot (Stage 2 tenant consultation) in consultation with the Cabinet Member for Housing and Community Safety.

7. That Members formally thank the Housing Future Customer Group for their hard work and commitment in working with the Council to develop the offer.
8. A further report is brought back to Cabinet on assets, the financial implications of stock transfer, means of mitigation to the Councils General Fund and the outcome of the tenants' ballot.

## 2. Reasons for the Recommendations/Decision(s)

To secure long-term funding that will ensure the provision of quality, appropriate and affordable social housing in sustainable communities. Accommodation that will meet the housing needs and aspirations of current council tenants and future generations of the Borough.

## 3. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

**Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.**

**AGENDA ITEM**

**REPORT TO CABINET**

**14<sup>th</sup> SEPTEMBER 2009**

**REPORT OF CORPORATE  
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2. Recommendations

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9. A further report is brought back to Cabinet on assets, the financial implications of stock transfer, means of mitigation to the Councils General Fund and the outcome of the tenants' ballot.

## DETAIL

1. Members will recall that in September 2009, Cabinet formally endorsed 'stock transfer' as the Authority's preferred delivery option to secure future stock and service investment needs. Since this time a number of key work streams have been taken forward including; the establishment of the new-style Tristar Homes Shadow Board, identification of 'other' assets that may transfer (for example associated land and estate shops), consultation with tenants in estates that are deemed not to be sustainable in the long term, ongoing financial modelling, the development of the Offer document and critically negotiations with the Homes and Communities Agency (HCA) leading to the submission of a formal Transfer Application. A progress summary of each is detailed below:

### The new landlord Shadow Board

2. The Shadow Board has now met on a number of occasions to progress the business of the potential new landlord. At the time of writing this report, 11 of the 12 Board Director positions have been recruited to. The remaining vacancy is for a tenant Board Director; however following a further advertising campaign further expressions of interest have been made and a formal selection process is now underway. It is anticipated that this remaining vacancy will be recruited to in the near future.

### Identification of other assets

3. As part of the transfer the Council also needs to consider if it is appropriate to transfer associated assets such as estate shops, land and park and cemetery lodges.

#### Estate Shops:

4. Currently there are 84 shops within the housing portfolio, of these 36 have 'secure' or 'introductory' council tenants living above in flatted accommodation. A detailed financial appraisal is currently ongoing to review the options for all shop units. On conclusion of this exercise a further report will be brought back to Members identifying the options available (including the financial implications) to the Council. Members are asked to note that all flats above estate shops (where there is either a secure or introductory tenant) will automatically be consulted as part of the transfer proposal; however there are legal mechanisms available to retain the shop unit beneath should this ultimately be the option favoured by the Authority.

#### Land:

5. The land audit will concentrate on all Council owned land, initially to identify what is sensible to transfer (i.e. small grassed areas located in estates where the majority of housing is currently council owned and will therefore transfer). Due to the comprehensive nature of this audit and the need to consult officers in other service areas (including Care for Your Area, Regeneration and Highways etc), it will take some time to complete. On this basis a further report will be brought back to Cabinet to seek agreement on the criteria for which land should transfer (the criteria will include for example strategic importance, value and consideration of any potential liabilities and associated costs). Following this a schedule of land to transfer will then be compiled.

#### Park and cemetery lodges:

6. Currently within the HRA there are 11 properties which are either park or cemetery lodges, previously these properties were within the portfolio of the Care for Your Area service but were transferred to Housing in 2005. At this time the rationale for moving into Housing

ownership was to bring all properties up to a 'decent standard' as some were in a poor standard.

7. However the 'strategic' importance of these properties in terms of future regeneration, there location in terms of accessing the various parks/cemeteries, as well as practical issues such as occupancy linked to employment all now need to be considered. The initial view of officers is that these properties should be retained by the Council. Advice has been sought from the Councils legal advisors who have confirmed it is possible for the Council not to include these properties in the transfer (and still close the Housing Revenue Account), however to achieve this they would need to be transferred to the General Fund which will require Secretary of State consent.
8. In order to commence consultation with the occupying tenants, Members are asked in principle to agree that these properties are not included within the stock transfer, rather they transfer to the General Fund and delegated authority be given to the Directors of Legal and Democratic Services and Development and Neighbourhood Services in consultation with the Cabinet Member for Housing and Community Safety to make a formal application to the Secretary of State pending additional legal advise regarding the application process/timescales etc.

#### Consultation with tenants in non-sustainable area

9. Following Member approval in September, consultation has taken place with tenants (and leaseholders) in both the Swainby Road and Victoria estates. A report detailing the process and outcome of the Swainby Road consultation is also to be presented to this Cabinet (Parkfield/Mill Lane and Swainby Regeneration).
10. Consultation with tenants and leaseholders on the Victoria estate took place early November 2009. Due to the proposed transfer this consultation took place earlier than would normally have occurred as the proposed regeneration is not likely to commence until at least 2013/14. However the Offer document which will be issued to tenants as part of the formal transfer consultation needs to be transparent in the commitments and promises it makes to tenants in all areas of the Borough.
11. In advance of the formal consultation sessions, each tenant and leaseholder on the Victoria estate was hand delivered a letter explaining that due to current stock condition, poor estate layout and concerns expressed by local residents that the Council was considering plans to regenerate the area. This letter invited all residents to one of a series of consultation events held at either Stockton Library or in the Community House located on the estate (in addition, home visits were offered to elderly and disabled tenants). All tenants who attended one of the consultation sessions were issued with an Information Sheet (based on a frequently asked question and answer format). In addition the Information Sheet was also posted to all those that did not attend. In summary 72 tenants and leaseholders either attended a consultation meeting or received a home visit and the majority supported the principles of regeneration. The local ward members have been consulted at each stage of the consultation detailed above.

#### Financial modelling

12. Two key areas have work have been progressed in terms of the financial modelling:

(i) Mitigating the implications of stock transfer on the Council:

13. As reported to Members in the September 2009 there will be no 'ring fenced' Housing Revenue Account after transfer and consequently there are a number of financial implications (both capital and revenue) to the Councils General Fund.
14. As was explained in the September report the proposed transfer would involve writing off of the Council's remaining housing debt (referred to as "overhanging debt") by the HCA.

Discussions around this area are very technical; in summary the calculation for debt that is written off is usually calculated as a 'notional figure' (the capital subsidy financing requirement). In Stockton this figure is higher than the 'actual housing debt', thereby giving a positive receipt to the Authority to help mitigate any potential costs and liabilities arising from the transfer. The clearing of debt would generate a saving to the Council's General Fund of £0.93m in the first year, reducing thereafter by 4% per annum. As detailed in paragraph 21/22 of this report, the Council has now made a formal Transfer Application to the HCA and as part of the HCA assessment and sign-off process the Authority expects a formal response on this issue.

15. Members are asked to note that if the 'notional' debt write off position is not achieved (as detailed above) it would create a revenue pressure in the region of between £600k/£800k per annum and seriously question the viability of the transfer. On this basis Members are asked to agree to proceed to formal tenant consultation on the understanding that the HCA make a favourable reply back to the Council. If it is not, an urgent report would be brought back to Cabinet.
16. A full and detailed report clarifying the Councils capital and revenue position will be brought back to Members, confirming both the financial impact of the transfer and the agreed means of mitigation. It is acknowledged that transfer can only take place if it is cost neutral to the Authorities General Fund.  
  
(ii) Stock valuation financial modelling and the new landlord Business Plan
17. As part of the Authority's Transfer submission, the Council was required to submit a Single Transfer Model (SMT), the STM details for example; the stock valuation, details of the new landlords investment plan, details relating to the Housing Revenue Account debt, the cost of funding the transfer (i.e. the level of private finance required) and how the transfer proposal provides value for money to the Government and hence the taxpayer.

#### Ongoing communication with the HCA: submission of a formal Transfer Application and Offer Document

18. Following Cabinet approval to progress transfer immediate contact was made with the HCA to commence the transfer negotiations. At the HCAs request a letter was sent to both the HCA and the Communities and Local Government Department (CLG) to re-affirm the Authority's position on transfer and significantly that this decision had been taken following detailed consideration of the ongoing HRA review.
19. On the 22<sup>nd</sup> October 2009, a meeting was held with HCA representatives (London and North East). At this meeting the Authority sought clarification on timescales for a formal Transfer Application. The HCA strongly advised the Council that if they wanted to progress transfer (on the current more advantageous terms and not those proposed as part of the HRA review) that we need to submit both the Transfer Application (with the associated financial modelling) and the draft Offer document by the end of November 2009.
20. Despite earlier attempts to clarify timescales, this was the first time this submission timetable had been raised by the HCA and was considerably earlier than the Authority had been working to.
21. As members will recall the financial proposals contained within the HRA review regarding stock transfer are financially less advantageous than the current terms of transfer, on this basis it was vital that the Council moved forward as a matter of urgency to ensure that we did not lose this 'window of opportunity'. Following the HCA meeting a submission date of the 27<sup>th</sup> November was agreed and a formal request made by the Authority that the HCA assess the Authorities application and formally replies by the 8<sup>th</sup> January 2010.

22. To ensure this new application timetable was achieved officers of the Housing Service in partnership with Tristar Homes revised the Housing Futures project plan and fast tracked these critical areas of work. It had been originally anticipated that as the Offer document developed that members would be involved and be provided with the opportunity to comment on early working drafts, unfortunately given the new timetable this was not viable. Immediate contact was made by the Head of Housing to the Cabinet Member for Housing and Community Safety and each party Leader to explain the revised submission timescales and the implications of this. With their agreement a draft copy of the Offer Documents was issued to each for comment before the final version was submitted. To ensure that all Members are aware of the commitments/promises detailed in the Offer two briefings have been held prior to Cabinet.
23. It is vital (and a clear expectation of both the HCA and TSA – Tenant Services Authority) that the Offer is developed by tenants for tenants and that the commitments detailed in it have been fully costed up and can be afforded by the new landlord. To recap, the Offer document is the Council's offer to its tenants, it set out to tenants a series of 'promises' in relation to both property and service improvements and clearly details the implications of either 'staying with the Council' (a 'no' vote) or transferring to the new-style Tristar Homes (a 'yes' vote).
24. To achieve the new Offer document timetable the Housing Futures Customer Group – HFCG (the tenant consultation group) supported by their appointed Independent Tenants Advisor agreed to meet with Officers of the Council and Tristar on a weekly basis. These meetings have enabled the Council to draft a document that truly reflects the aspirations and priorities of tenants. Without the time commitment made by members of the HFCG the Council would not have developed the Offer and on this basis Members are asked to 'formally thank' HFCG members.
25. A copy of the draft Offer document is attached (**Appendix 1**). The document is broken down into a number of key headings and included under each chapter are a number of 'promises' (legally binding commitments). Before the Offer can be issued to tenants it needs to be signed-off by both the HCA and TSA, on this basis Cabinet are asked to endorse the current document and delegate any final revisions or amendments to the Director of Development and Neighbourhood Services in consultation with the Cabinet Member for Housing and Community Safety.
26. The Offer is a legal document. On this basis Members can be reassured that all attempts will be made to ensure that all tenants fully understand the implications of the Offer for example; a narrative and DVD summary will be produced and issued to all tenants, each tenant will be individually 'door knocked' and key messages and information will be contained in future editions of the 'Your Home, Your Say' the Housing Futures newsletter. Copies will also be distributed in other languages and formats were we are aware of an identified need.

## Next steps

27. To ensure that the Council is in a position to take full advantage of the current 'transfer window' it is imperative that once the HCA approves the Councils Transfer Application (and Offer document) that we proceed immediately to the formal stages of consultation with tenants. The timetable for consultation is prescribed by Government and is set out below:
  - Offer Document is issued to each secure and introductory tenant (**Stage 1**). This is followed by a 28 day consultation period, in this period tenants are invited to provide feedback (via pre-paid reply cards) on the transfer proposal.
  - The Council will then take account of tenants' comments and decide whether the transfer proposal needs to be altered and whether to proceed to ballot.

- If the Council decides to go ahead a letter will be sent to all tenants (called a **Stage 2** letter).
  - A confidential ballot will then be organised by the Council (to be carried out by an independent organisation – the Electoral Reform Society). A 28 day ballot period is considered to be the norm.
28. To ensure any unnecessary delays which would adversely affect the Authorities transfer proposal Members are asked pending:
- I. Formal sign-off of the Authorities Transfer Application and securing Ministerial approval for transfer and
  - II. The position regarding the write-off of housing debt is clarified as detailed in paragraphs 14/15.
- to proceed with the formal stages of tenant consultation (and ultimately a tenant ballot).
29. In addition, delegated approval be given to the Corporate Directors of Development of Housing and Neighbourhood Services and Law and Democracy in consultation with the Cabinet Member for Housing and Community Safety to consider all feedback received following the issuing of the Offer document, decide whether any changes are required and following this assessment make a final decision to proceed to ballot.
30. A report detailing the outcome of the tenant ballot will be reported back to Members and pending the outcome of this process the detailed next steps.

### **FINANCIAL IMPLICATIONS**

Financial implications are set out in the main body of the report. Details of the key financial risks and means of mitigation to be brought back to Cabinet for due consideration.

### **LEGAL IMPLICATIONS**

Council approval is required before an application is made to the Secretary of State under Section 32 of the Housing Act 1985 to transfer the housing stock. Preparing the offer document and consulting tenants on the implications is a necessary part of the process. The majority of secure tenants affected by the proposed transfer must be in favour (of transfer) in order to obtain Secretary of State consent.

To ensure that the Council is appropriately advised throughout this process a senior Legal Officer sits on the Project Board and a specialist external legal advice has been procured to ensure that the Council's interests are protected.

### **RISK ASSESSMENT**

Stock transfer has been classified as a high-risk project. A risk assessment plan has been drafted and appropriate management systems are in place to control and reduce ongoing risk. In addition IPB our communication consultants have extensive experience of tenant ballots and will be market-testing tenants' opinion before we finalise the ballot date which will further reduce the risk. Ongoing risk assessment will also be a key area for the Project Board to manage.

### **SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS**

The option appraisal and proposed next steps contribute to the following key policy platforms within the Sustainable Community Strategy:



- Economic Regeneration and Transport: supports wider economic and social regeneration.
- Environment and Housing: property investment, 'place shaping', addressing housing need.
- Safer communities: investment in the environment to improve the quality of place.
- Health and wellbeing: improving the quality of accommodation and provision of services to housing and vulnerable households.
- Stronger communities: by contributing to the wider sustainable communities agenda.

## **EQUALITIES IMPACT ASSESSMENT**

This report is not subject to an Equality Impact Assessment. It has been agreed with the Councils Equality and Diversity Team that an EIA will be undertaken on both the Consultation Plan and the Offer Document. This will be reported back to members in a future Cabinet report.

## **CONSULTATION INCLUDING WARD/COUNCILLORS**

Tenants and leaseholders: Ongoing communication has been maintained via the publication and distribution to each council property of the 'Your Home, Your Say' tenants newsletter. The newsletter provides regular project updates and seeks tenants' views/opinions on key issues.

Ward members: Members have been consulted at key stages of the project i.e. a Member seminar was held in September 2007 at the inception of the exercise and further members briefs held before the November 2008 Cabinet. In addition the Joint Reference Group (which undertook the Landlord Choice process) included nine councillors, representative of the various political parties. Following the conclusion of the Landlord Choice further Member Drop-In sessions were held in August/early September 2009; all ward members were invited to attend. An Offer Document briefing was also held for all members early January 2010.

All Members also receive copies of the 'Your Home, Your Say' newsletters before distribution to tenants.

Other key stakeholders: a progress report has also been tabled at the Renaissance partnership and the Housing and Neighbourhood Partnership.

Future consultation: During all stages of the transfer proposal stage tenants, leaseholders and members will continue to be key consultees.

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### Background Papers

Housing Futures Report to Cabinet 2<sup>nd</sup> August 2007  
 Housing Futures Report to Cabinet 6<sup>th</sup> November 2008  
 CLG consultation paper Reform of Council House Finance July 2009

### Ward(s) and Ward Councillors:

All

### Property

The transfer of the housing stock will mean the Council will no longer be the owners of the stock. As detailed in the body of this report consideration is also being given to the potential transfer of other associated assets that will/may need to be transferred such as some council owned land,

land, estate shops etc. More detail on what is required and the implications will be detailed in a future Cabinet report.