

Housing Transfer Programme Board

19th September 2007

Attendance:

Councillors – Graham Butland (Chairman), John Gyford, Michael Lager and Eric Lynch.

Consultants – Rob Beiley (Trowers and Hamlins) Simon Martin, Price Waterhouse Cooper (PWC)

In attendance: Councillor Dr Robert Evans

Officers – Chris Fleetham, Finance Director and Allan Reid, Chief Executive.

Action by

1 **Apologies**

Apologies for absence were received from Councillor Simon Walsh.

2 **Minutes**

DECISION: That the minutes of the Board meeting held on 22nd August 2007 be approved as a correct record and signed by the Chairman.

3 **Environmental Warranties**

The Partnership Board received a report from Graeme Merry of Heath Lambert on the Environmental Liabilities and Risk Management Options Assessment.

The purpose behind the report was to assess the risks faced by the Council given the fact that the Council was transferring control of the Housing Stock to Greenfields but still have to underwrite the risks associated with the housing stock. The report summarised that despite the Council's housing stock being of generally low risk the survey undertaken by Enviros had identified a total of 325 properties which were considered to be above low risk. The summary report which was circulated to all Members gave further details of the risk ratings and explained the reasons for the risk ratings and where this is higher than normal it includes issues such as the risk of site contamination. The report concluded that given a worst case scenario the liabilities could amount to a total of £2.5m.

Mr Merry explained the options open to the Council in managing the risk, these are summarised as being

- Do nothing, the stock being of fairly low risk;
- To establish the Council's own fund to cover unforeseen eventualities;
- To purchase environmental insurance that would give financial protection of either £5m or £10m at a cost of £120,000 to £175,000.

Members noted the advantages and disadvantages of the various options including the fact that if the Council was to take out cover there were a number of exclusions from the policy but the cost if agreed before transfer would be shared with Greenfields.

Members agreed to read the summary report provided by Heath Lambert before making a decision and so agreed to defer a decision to the next meeting of the Board.

4 Administration of the Community Fund

Simon Martin from PWC gave a verbal update on the outcome of officer discussions that had taken place earlier in the day concerning the different options for administration of the Community Fund.

The three options discussed were around (a) the fund being managed by the Council – this was unlikely to be acceptable to the GCH Board; (b) the fund being managed by GCH or (c) setting up an independent community trust to manage the fund. Option (c) was likely to involve considerable expense and would take time and resources. The Board therefore discussed the details of option (b). Mr Martin explained that officers had set out earlier in the day that if the Council was to agree to the fund being managed by GCH then this would need to be subject to the following safeguards:

- The fund being used for a pre-agreed set of uses as set out in the main bullet points of minute 3 of the last meeting. These included affordable housing, community facilities and estate enhancements.
- Any expenditure being subject to the agreement of both parties;
- The fund being kept in a separate account to anything else albeit belonging to GCH;
- Some sort of deadlock proposals that could be invoked should GCH and the Council fail to agree on a proposal and this could involve an independent arbiter.

Discussions had also taken place at an officer level as to whether any of the proposals for use of the Community Fund could come within the VAT shelter. If it was possible to do this at the time of transfer then a scheme could attract an extra 17.5% that would otherwise be spent on VAT. In order to be eligible the proposals would need to be agreed by both parties and be in sufficient detail to satisfy the Customs and Excise department. One such scheme believed to in such a position and on which GCH and the Council agreed was a proposal for the Templars Estate in Witham. This had been drawn up a few years ago and would need to be reviewed urgently if this was to proceed. It was recognized that the element of the scheme for affordable housing, if approved, would not qualify for VAT relief under the VAT shelter.

It was noted that if the Templars Scheme could be advanced in agreement with GCH then this would minimize the opportunities for any subsequent dispute of use of the community fund. On the other hand it would use a substantial chunk of the fund on one project.

DECISION:

- (1) That the principle of GCH administering the Community Fund, subject to the safeguards outlined above, be agreed and officers bring a detailed proposal to the next meeting of the Programme Board for recommendation to Cabinet and Council;
- (2) That in conjunction with the report referred to in (1) above, officers evaluate the position regarding the proposals for improvements to the Templars Estate in Witham to establish if this and any other proposals can be jointly agreed with GCH at the time of the transfer and therefore benefit from arrangements in the VAT shelter.

5 **Transfer Agreement**

Rob Bailey advised the Board of the latest position so far as the transfer agreement was concerned. Greenfields funders were expected to be mandated during next week and he and officers of the Council had conducted a useful meeting with the GCH legal advisers.

Members noted that there were a few contentious issues which still needed to be resolved. These included the following:-

- (a) The issue of a single-tier work-force;
- (b) The issue of covenants and the promises made at the time of transfer.
- (c) Warranties and the desire with which GCH wish to redevelop.
- (d) The unusually late Peak Debt. Although GCH officers and advisers had been requested for information about this issue there was still no satisfactory explanation as to why this was likely to occur and therefore incur GCH in additional costs.

6 **Service Level Agreements**

The Finance Director presented a report summarising all the SLAs and the current position of each as at 11th September 2007. It was noted that most of the Service Level Agreements were due to expire on 31st March 2009. It was noted that the total estimated value of the SLAs was about £1.5m and although this was more than originally envisaged and therefore good news in the short term, it might only defer difficult decisions in respect of high cost services for 12 months. GCH would be required to market test all of these services towards the end of the term and if the Council services were unsuccessful in tendering for work then it would lose a major customer.

7 **Staffing Issues**

Chris Fleetham, the Finance Director again highlighted the difficulties faced in negotiating with GCH over the subject of the single tier work force.

He advised Councillors that although the new posts in GCH had yet to be advertised, the expectation was that these would be advertised in the next two weeks. There had been discussion between officers /advisers of both GCH and the Council over the issues of TUPE and pensions so far as those staff transferring are concerned. Members of the Partnership Board reiterated very strongly that the Council had not long ago reaffirmed its decision that the new employees of GCH should have the same terms and conditions of service and this was not negotiable.

8 **Local Land Charges Insurance**

The Board considered a report from Sarah Stockings, Legal Services Manager setting out the requirement for the Council to give warranties to Greenfields that all the properties being transferred have good title. The report explained that the Council was required to carry out a test of due diligence exercise to ascertain whether there are any defects or incumbrances that need to be disclosed to Greenfields. In the normal course of events this would involve carrying out a Local Land Charges Search in respect of each property. However, as there are approximately 8,200 properties transferring this process would be prohibitive in terms of officer time and the cost. The Council's legal advisers Trowers Hamlin have recommended that the Council carry out a small sample of land charge searches and obtain insurance to cover against any entries which might affect the

properties. A quotation had been obtained from Legal and Insurance Limited who have quoted a premium of £43,575.

DECISION: That it be **recommended to Cabinet and Council** that the principle of obtaining insurance as set out above be agreed and the Director of Finance be authorized to obtain cover subject to obtaining competitive quotes in accordance with the Council's financial regulations.

9. **Section 25 Loan**

The Finance Director presented a short report reminding Members of the previous decision to lend GCH £3.575m to meet its set up costs with £2.806m being met from the capital receipt and the remainder of £0.769m of pre-transfer costs being met on the day of transfer. The Council agreed to a further £1.5m loan to enable GCH to acquire land and prepare to move into new accommodation. In the unlikely event that this loan was needed it would be re-paid on the day of transfer.

The report outlined that the initial loan included a loan arrangement fee of £1.2m based on a peak debt of £98.6m. This had now risen to £134.5m for reasons outlined in the officer's report and the implication of this was that the loan arrangement fee had increased to £1.75 a rise of £0.55m and GCH had requested that adjustments be made in the loan to GCH to fund this fee.

Simon Martin and Chris Fleetham felt they had not received satisfactory explanations to this significant increase in the loan arrangement fee. It was therefore agreed to defer a decision on re-aligning the Loan until the Board's next meeting.

10 **Right to Buy Proposals**

Simon Martin explained that tenants transferring would have a preserved right to buy their property. The Board was informed that officers had discussed this issue and the impact of sales on the loss of rental income by GCH. This discussion was ongoing and any conclusion would be brought back to the next meeting of the Board.

11 **Issues from Joint Meeting with GCH held on 19th September 2007**

Chris Fleetham advised Members that discussions had been undertaken on the following issues not covered above:

- The fact that the GCH assessment by the Housing Corporation had taken place and it appeared that GCH were on track for completion by 12th November 2007.
- Indemnity against sewer costs which the Government proposed would be transferred to the Water Authority at some point in the future;
- The costs associated with taking on unadopted roads as set out in the Business Plan

The Programme Board agreed that where agreement had been reached over issues like the transfer of sewers and unadopted roads this was the position and negotiations should not be re-opened.

12 **Project Plan**

Simon Martin from PWC advised the Board that in his view the transfer date was still achievable but there was considerable work for GCH. They had yet to appoint funders and the business plan was not finalized.

13 **Date of Next Meeting**

It was noted that the next meeting was scheduled for 7.15pm, 17th October 2007 at Causeway House. Apologies for absence were received from Councillor Lager.

14 **Any Other Business**

It was noted that a Seminar would be arranged prior to the November Council meeting. It might be necessary to hold an additional meeting of Cabinet after the Seminar and before the Council meeting to make recommendations regarding the housing transfer.

The meeting commenced at 7.15pm and 9.06pm

CLLR G BUTLAND
Chairman