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| COMMITTEE | Council |
| DATE | 10 December 2009 |
| TITLE | The Council's Housing Stock Transfer Agreement with Cartrefi Cymunedol Gwynedd Cyfyngedig |
| PURPOSE OF REPORT | To consider and approve the Housing Stock Transfer Agreement to be presented to the Wales Assembly Government |
| AUTHOR | D P Lewis, Corporate Director |
| PORTFOLIO LEADER | Councillor Trefor Edwards |

1.0 Background

1.1 Attached as an appendix is a report presented to the Council's Board on 24 November 2009 regarding the Council's Housing Stock Transfer Agreement with Gwynedd Community Homes.

1.2 **The decision of the Board was:-**

1. To accept the report and recommend to the Council that the Contract is approved with a request to consider including the following clauses:-

- (i) That building work tenders will not be packaged in a way which will disadvantage small and medium sized companies;**
- (ii) That formal contact meetings are expected to be held often and regularly between Gwynedd Council and Gwynedd Community Homes Association Ltd;**
- (iii) That reports are submitted in the contact meetings on contracted work as well as on how everyone involved in the building industry gets the opportunity to benefit;**
- (iv) That firm targets are set regarding the numbers of contractors and local workers who are offered work;**
- (v) That Gwynedd Community Homes Association Ltd is required to report to the Council every six months on how it complies with the promises made to the tenants;**
- (vi) That further consideration is given to the length of the period when the formal contact meetings are held, withdrawing the reference to the 'six year period';**
- (vii) That a further report on the new procedure of scrutinising the work of Gwynedd Community Homes Association Ltd is submitted to the Committee before March 2010;**

(viii) That further discussions are held in relation to the indemnity given by the Council to Gwynedd Community Homes Association Ltd and its financiers regarding asbestos in the properties.

2. To authorise the Corporate Director to act on any further changes to the Contract, which could become evident following discussions with Gwynedd Community Homes.

1.3 The Council is requested to consider the Board's decision and approve the Transfer agreement to be presented to the Assembly for their consideration.

2.0 The Context of the Transfer Agreement

2.1 The Transfer Agreement is the legal document which consists of all matters appertinent to the transfer of the housing stock to Cartrefi Cymunedol Cyfyngedig. It includes:-

a) details of all property to be transferred including the dwellings, land attached to the dwellings and the housing revenue account, all buildings and structures on that land, roads, sewers, drains, vehicles, equipment, tools and stores

b) all details regarding the staff transfer which will be as a 'TUPE' transfer

c) covenants regarding the expectation of Cartrefi Cymunedol Gwynedd Cyfyngedig to deliver on the promises made to tenants in the 'Offer Document' and also the link with the Council in future which included reporting on performance and co-operating with the Council in its strategic role as a housing enabler. This will also be a key issue for the Assembly in giving its consent to the transfer and its future role as the regulator.

2.2 As already noted the Agreement will be presented to the Assembly to be scrutinised to ensure that the business plan of Cartrefi Cymunedol Gwynedd Cyfyngedig is able to deliver the requirements of the Agreement. The Assembly's expectation is to receive an agreement which is 95% complete with further details being included as they become clearer. This will also happen with Cartrefi Cymunedol Gwynedd Cyfyngedig's financial lenders and where there are concerns or doubts then these matters will be the subject of more detailed discussions and negotiation between the Council and Cartrefi Cymunedol Gwynedd Cyfyngedig.

2.3 In relation to this essential work is taking place to identify risks and to protect the Council's position in the future. The Agreement includes matters where there is uncertainty regarding implications and how to remedy them. In some situations the Council will have to provide a warranty or indemnity to Cartrefi Cymunedol Gwynedd Cyfyngedig to protect them from unforeseen

expenditure or where it is not possible to quantify expenditure at the current time.

- 2.4 The Council will be providing warranties which will be backed by insurance, the cost of which is part of the setting up costs of Cartrefi Cymunedol Gwynedd Cyfyngedig. Any indemnities which the Council are required to provide would mean a commitment by the Council to meet specific expenditure along with the financial implications arising.

3.0 Specific Matters Receiving Attention

- 3.1 Some matters were known to everyone in advance and have received attention as expected e.g. an environmental appraisal of land to be transferred; the presence of asbestos in dwellings; whilst some matters have come to light as discussions have proceeded e.g. sewage treatment works, unadopted sewers and unadopted mains water supplies.

- 3.2 In accordance with the project arrangements all these matters are receiving specific attention before reaching decisions and agreement on the way forward:-

- a) Environmental Appraisal – an independent company has been commissioned to consider the details of the land being transferred and assess environmental risks from previous use. The intention would be to provide a warranty financed as part of the setting up costs. The consultants undertaking the work are themselves providing warranties in respect of their work.
- b) Asbestos – we are aware that asbestos exists in some of the Council’s houses and work has already been done on some estates to remove it. The expectation is to reach an agreement following survey work on the risk levels and agree a cost per property which would need to be exceeded before any implications fall on the Council. This discussion is on-going with information being sought from the surveyors who undertook the house condition survey to clarify the position.
- c) Sewage Treatment Works – we have 10 works which service a variety of dwellings including Council and private dwellings. A survey has been commissioned of all the works with a view to establishing their condition and the cost of improving them. Following this there will be a need to negotiate and agree a way forward with Cartrefi Cymunedol Gwynedd Cyfyngedig. Linked to the treatment works are unadopted sewers, again further work is being done to establish the actual situation.
- d) Unadopted Mains Water Supplies – ever since some estates in the area of the former Gwyrfai Council and Bala were built disagreement has existed between the Council and Welsh Water regarding who is responsible for the main supply pipe. With the transfer of those estates there still needs to

be discussion and agreement regarding this. Currently specific work is being done to define the legal position in the context of the transfer prior to opening discussion with Cartrefi Cymunedol Gwynedd Cyfyngedig.

- 3.3 The above note some of the main issues now receiving attention and which will need agreement on before the transfer can happen. A previously noted, where it is possible to provide a warranty through an insurance policy financed as part of the costs of establishing Cartrefi Cymunedol Gwynedd Cyfyngedig then there is no additional cost to the Council. In addition the Council can protect itself by disclosing in the transfer documentation where it cannot comply with the terms of a warranty and by the stock condition surveyors and environmental consultants warranting their own work. Where an indemnity is offered then there may be a cost implication or, depending on the discussions, a need for the Council to continue being responsible for some matters.
- 3.4 The aim throughout this is to protect the Council's future position and minimize any implications of the transfer. To this end the Council has employed specialist legal and housing consultants who advise the Council on the transfer process. Both consultants have considerable experience of leading transfers in Wales and England and we are able to learn from their experience.

4.0 Conclusions and Recommendation

- 4.1 Whilst accepting that there is much more work needed before reaching a final agreement members need to be aware that there are several issues which will need to be discussed, negotiated and agreed with Cartrefi Cymunedol Gwynedd Cyfyngedig prior to the transfer taking place. Specific delegated authority is requested to allow this to be achieved within the tight timetable which exist.
- 4.2 The Council is asked to:-
- a) approve the Transfer Agreement for presentation to the Assembly.
 - b) authorise the Corporate Director, in consultation with the Monitoring Officer and the Head of Finance, to implement any further changes to the Agreement which may become apparent in discussion with Cartrefi Cymunedol Gwynedd Cyfyngedig.