

## 1. BACKGROUND

- 1.1 As a result of a Stock Transfer Agreement (**STA**) dated 29 April 1993, around 80 employees from Hambleton District Council (**Council**) were transferred to the employment of what was then known as Hambleton Housing Association Limited (now Broadacres Housing Association (**BHA**)).
- 1.2 Prior to the transfer, these employees were eligible to be or perhaps were active members of the London Pension Fund in the Local Government Pension Scheme (commonly referred to as the **LPFA**). *Given the location of all of the units transferred to BHA under the STA, it is not entirely clear why the employees were members of the LPFA and not the North Yorkshire Pension Fund (**NYPF**) in the Local Government Pension Scheme (**LGPS**); this would have been the fund that geographically matched the location of the housing stock and the staff employed to maintain the housing stock and carry out other services ancillary to the provision of the housing stock.*
- 1.3 BHA's LGPS was closed to new entrants in 2005 and there are currently eight BHA employees who are active members of the LPFA (**LPFA Actives**). *Their age profile is such that there could be a number of retirements over the next few years; the youngest LPFA Active might be expected to reach retirement age in the next 5-8 years.* Continuing to participate in the LPFA until the last LPFA Active leaves employment (as opposed to closing the LPFA now) allows a build-up of further accrual and potentially a large **Cessation Debt** (triggered as a result of ceasing to employ any LPFA Actives) becoming payable later.
- 1.4 In September 2020 a change to LGPS legislation (Regulation 64) allowed admitted bodies to negotiate deferred debt agreements. This is a new ability to defer an exit valuation. The employer becomes a "deferred employer" and its assets, liabilities and secondary contributions are reassessed at each valuation. No primary contributions are payable as accrual of benefits has ceased. This leaves BHA open to ongoing liabilities ad infinitum. Alternatively, a new provision (Regulation 64B) has been introduced enabling exit payments to be spread over a reasonable period (subject to this being in the Fund's Funding Strategy Statement). Under this approach the debt is still crystallised.
- 1.5 BHA has been reviewing its pension strategy since 2018, identifying areas of risk to BHA and the sustainability of its long term goals. Even with a payment plan in place, tying up homes as security to cover the costs of exiting a pension scheme, BHA will have to reprofile investment spending on social housing to the detriment of the local community and wider regional area.

## 2. PROPOSAL

- 2.1 Our proposal is:
- 2.1.1 that BHA closes the LPFA and all of its assets and liabilities in relation to BHA's participation in the LPFA are transferred instead to the NYPF;
- 2.1.2 those assets and liabilities are added to Hambleton District Council's own assets and liabilities in the NYPF and as the LPFA liabilities are transferred out, when BHA's Cessation Debt is calculated, it will be zero. The funding implications for the Council are discussed in Section 3 below.
- 2.2 The process described in paragraph 2.1 above, is commonly referred to by actuaries and advisers familiar with the LGPS as '**subsumption**'. *This has occurred several times previously within local authorities across the UK, including in 2019 between Watford Community Housing Association, Watford Borough Council and Hertfordshire Pension Fund.* It is not a defined term in the LGPS Regulations. However, it is possible under the LGPS Regulations, because:
- 2.2.1 the administering authorities of each fund in the LGPS have significant discretion in how to calculate an employer's contributions; and
- 2.2.2 members of the LGPS are assigned the appropriate administering authority for their circumstances (i.e. BHA's LPFA Actives have been assigned to the LPFA). It is possible to substitute a different administering authority (such as the NYPF) in

LPFA's place, however this will require a direction from the Secretary of State. BHA and Hambleton District Council will jointly need to apply for that direction to the Ministry for Housing, Communities and Local Government.

- 2.3 This solution would therefore require the consent and cooperation of Hambleton District Council, North Yorkshire County Council, as administering authority of the NYPF, and the Secretary of State for Housing, Communities and Local Government.

### **3. FINANCIAL INFORMATION**

- 3.1 Based on financial information we have previously been provided, at 30 September 2020, BHA had a surplus of £0.3m on the LPFA's ongoing funding basis. Following the subsumption of BHA's assets and liabilities by the Council and a transfer of these assets and liabilities from the LPFA to the NYPF, utilising the different actuarial assumptions fund by fund, we would expect the Council to be break-even in the NYPF in relation to the former BHA liabilities. The former BHA liabilities would represent around 15% of the Council's liabilities in the NYPF post transfer and would therefore have a relatively small impact on its overall long term risk profile.
- 3.2 The LPFA has provided an anticipated Cessation Debt for BHA's element of the LGPS managed by the LPFA. This has been calculated as £7.2m.
- 3.3 In agreeing to subsume the assets and liabilities of BHA, BHA acknowledges that Hambleton District Council will be taking on the risk associated with these liabilities in the NYPF. Hambleton District Council would need to acknowledge this as well. As is the volatile nature of pension liabilities, there is always the possibility that there could be an increase in the size of the former BHA liabilities in the future, which Hambleton District Council will be required to fund. If there is an increase in the size of the former BHA liabilities due to changes in NYPF's actuarial assumptions, it is likely that Hambleton District Council would witness an increase in the size of its own liabilities in the NYPF too, of course. This is proposed to be mitigated by BHA some-what as described in the next paragraph 3.4
- 3.4 BHA proposes to provide £2m to Hambleton District Council to support the increased employers pension contribution. This is approximately sufficient to cover the remaining years of contributions relating to the LPFA Actives plus anticipated movements in the fund. Additionally, BHA will provide a long term agreement for seven years, from the transfer date, where a maximum of £3m will be made available in the event that potential risks occur that could not have been foreseen e.g. equity values fall by 25%, discount rate falls by 1%, Life expectancy increase by 2 years. These assumptions have been detailed by AON, Hambleton District Council's actuarial advisers. In those seven years two triennial actuarial valuations will have occurred and the position of NYPF will have changed due to assumptions in liabilities and the value of the assets.
- 3.5 BHA have further agreed that on the day of any transfer, should there be a deficit position on their element of the LGPS fund, then this will be addressed so there is a 'breakeven' position from the very start.

### **4. REACTIONS**

- 4.1 Whilst technically not required, BHA would consult with the LPFA Actives in relation to its decision to close the LPFA and transfer them to an alternative scheme for future accrual. Their accrued benefits in the LPFA will be transferred to the NYPF (and funded by Hambleton District Council going forward), but would otherwise be unchanged.
- 4.2 Additionally, there may be a small possibility that Hambleton District Council is criticised for considering the subsumption of a third party's scheme (which is likely to become a matter of public record given that these decisions will have to be consulted upon within Hambleton District Council and minuted). The promise to make good any deficit at transfer, meet contributions and underwrite any future assumption or market uncertainty will assure taxpayers that a sound deal has been negotiated.