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Joy Hollister
Director
Adult Social Care & Housing
PC Box 2501
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Our Ref:
Your Ref: JH/HJH

Dear Joy,

Thank you for your letter of 20th November withdrawing the Council's previous application for transfer consent and submitting a new application for express consent under Section 32 of the Housing Act 1985 along with your application for Section 25 consent for a proposed 30 to 50 year lease transfer for up to 499 HRA dwellings. I am sorry that we were unable to meet our original timetable but it did take longer than we agreed for the revised submission to arrive.

I know you will be disappointed to hear that there are aspects of the application that remain unclear to us from what I thought was a simpler proposition when explained at our meeting and which has again become complex in written form. Until we fully understand the detail of the specific proposal the Council are making we cannot give advice to the Minister.

The Section 25 Consent Application is necessary because the Council proposes to make a £20-30m loan to the LDV which is intended to be a private charitable company outside of the Council's control. It discounts the well being powers and cites s24 of the LG Act 1988 as the best means to obtain s25 consent. Could you explain why this is the case.

The proposition you talked us through was:

- The LDV would be a charitable company;
- Prudential borrowing would be the funding mechanism: it would be provided by the council to the company.
- There would be no private sector borrowing.
- The company would operate independently but as the funder of the company the council would have to validate (and therefore approve) the business plan;
- We requested the company would be registered by the TSA and this was agreed.

We now feel that these points need clarification as they no longer seem to be case , along with the provision of the advice you have had on the proposal, including on the following points:.

- The financial model of the LDV is dependent upon relatively high, benefit-funded rent levels and essentially on ensuring that all tenants are accordingly benefit-dependent with tenants securing employment needing to transfer. The business plan of the LDV is therefore 'at risk' over the course of the lease transfer period from policy changes and fluctuation in benefit provision and levels.
- Private sector funding is now being proposed and it is assumed that this would need to be commercially secured from a funder perspective from a) either the properties being at risk i.e. ability for the funder to require sale of the properties to fund debts or b) the Council will guarantee the cash-flow. It is not clear how the proposed borrowing will be secured and provided for.

- The option of prudential borrowing and “on-lending” of such funding by the Council to the LDV with the LDV paying back the borrowing to the Council over the business plan term raises a number of issues that need clarification including the Council’s power to do so and State Aid.
- It is also not clear what is proposed regarding capital receipts for the Council if the LDV is to be funded through prudential borrowing on-lending.
- The position on classification and control under the different funding options.

These seem to be significant questions on your proposition over and above what was stated when you came to see us. We cannot at present either seek HMT’s agreement to this proposed LDV, which is considered to be innovative, novel and contentious / repercussive, nor seek the Ministers agreement.

In order to put this matter to the Minister we need a single clear proposal with detailed supporting evidence to clarify the issues set out above. We look forward to hearing from you further.

Yours sincerely

Anne Kirkham

