

Name of meeting: CABINET

Date: 9 February 2016

Title of report: Future Delivery of Housing Functions and Services (including repairs and maintenance)

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| Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards? | Yes |
| Is it in the Council's Forward Plan ? | Yes |
| Is it eligible for "call in" by Scrutiny ? | Yes |
| Date signed off by <u>Director</u> & name | Jacqui Gedman – 1 February 2016 |
| Is it signed off by the Director of Resources? | David Smith – 1 February 2016 |
| Is it signed off by the Assistant Director - Legal Governance and Monitoring | Julie Muscroft – 1 February 2016 |
| Cabinet member portfolio | Councillor Cathy Scott - Housing and the Relief of Poverty |

Electoral [wards](#) affected: All

Ward councillors consulted: None

Public or private: PUBLIC

1. Purpose of report

- 1.1 Following the decision taken at Cabinet on 22 September 2015, this report provides further analysis of the option to merge Kirklees Neighbourhood Housing (KNH) with Kirklees Building Services (KBS) in comparison to existing status quo arrangements.
- 1.2 To outline the considerations for developing and determining the content and length of any new management agreement for the future delivery of housing functions and services in the light of any merger.

- 1.3 To set out a high level deliverable implementation plan and time line which could be used to shape next steps should a decision to proceed with a merger be taken.
- 1.4 To seek Members agreement to proceed with a merger of KNH with KBS (subject to further work being undertaken to finalise the arrangements) as set out in this report.

2. Context

There are a number of key contextual considerations which should be acknowledged when examining the option to merge KBS and KNH with the existing status quo arrangements.

- 2.1 Kirklees Council is on a journey to becoming a new council which requires all services to consider the role they play in delivering the Council's strategic priorities which are set out in the Kirklees Economic Strategy and the Joint Health and Wellbeing Strategy.

Our strategic housing focus continues to be on ensuring that Kirklees has enough homes, of the right type and in the right location, that support people's health and well-being; that the most vulnerable residents are supported into and can maintain a suitable and settled home; and a quality housing 'offer' that attracts businesses and people to locate in Kirklees, and helps to drive economic growth and the place shaping agenda.

Our strategy to tackle the challenges focusses on:

- Taking a strategic approach to addressing the outcomes prioritised by Council and Cabinet through explicit commissioning of all those involved.
- Exploring new and more flexible approaches to supporting the delivery of new homes, including affordable homes and homes which meet the needs of older and more vulnerable people.
- Development of council owned sites including Ashbrow, Soothill and Passivhaus development at Newsome all of which help meet the Council's ambition of housing growth.
- Aligning with Leeds City Region strategy, to maximise our investment opportunities.
- Working with private landlords to improve the supply and access to, and standards of, accommodation in the sector.
- Developing future options for how housing functions and services will be delivered.
- With partners, ensuring our most vulnerable residents and those most affected by changes to benefits and reduced or restricted services, are supported to live independently and maximise opportunities for training and employment.

These priorities are interlinked with and directly support the Kirklees Economic Strategy, and the Kirklees Joint Health and Wellbeing Strategy.

2.2 The purpose of any change in housing management and maintenance services in Kirklees must include the opportunity to provide:

- Effective and efficient customer focused core housing management and maintenance services which also enable investment in strategic ambitions.
- Improved value for money and efficiencies plus the opportunity to be innovative in generating income through trading ancillary to the core functions.
- A medium to long term asset management strategy that ensures we have fit for purpose, decent homes to meet the needs of the community and maximises the value of council housing.
- Flexibility for the existing or any new organisation to have the opportunity to grow.
- A contribution under self-financing and the 30 year business plan to the Council's strategic outcomes.

2.3 The Housing Revenue Account (HRA) is a ring-fenced account which must balance and must be used to account for all income streams and costs relating to the provision of landlord services to council tenants including:

- Servicing HRA debt. (The HRA self-financing debt settlement was £216m).
- Maintaining current council housing stock at decency standard over the long term.
- Providing a high quality housing and neighbourhood management and housing repair service.
- Exploring with the Council and other partners opportunities for additional housing investment which contribute to the Council's wider strategic priorities.

HRA self-financing was implemented in April 2012. The intention of self-financing alongside the then national rent setting policy was to give councils with HRA more confidence in being able to forecast what were intended to be more sustainable future rental income streams to help with business planning, than was possible under the previous housing subsidy system.

The 8 July 2015 Government budget announcement includes an absolute 1% annual rent reduction each year for the next 4 years, for social housing rents. The financial impact on the HRA is an annual rental income loss of £1.6m in 2016-17, rising thereafter for each of the next 3 years, to £10.5m by 2019-20; equivalent to 11.6% loss in annual rental income by 2020. Rental income accounts for about 90% of total HRA income.

2.4 National government has set out a clear policy direction. There is a sharp focus on growth, enabling home ownership, reducing welfare, creating employment, building on growth and reducing the nation's structural deficit. In addition, there continues to be work to develop the regional devolution agenda coupled with a clear set of local strategic priorities to create economic growth and improve health.

- 2.5 Within this broader context, Kirklees is seeing some major changes and challenges which include more household formation, growth in the number of elderly, rising housing costs and increasing demand with more people registering for social housing. We are also seeing a shift towards private renting and registered providers considering the role they are able to play in the future to meet housing requirements. In addition, the Council is taking a fundamental look at the way in which it operates to respond to current and future priorities. In housing terms, there is a shift towards the Council having a housing enabling and commissioning role with an emphasis on “great places to live and work”.

These all combine to make a sizeable local financial and strategic challenge. This review to identify the most appropriate model for the delivery of housing management and maintenance and to explore how best to respond to the broader challenges set out, is timely.

3. Background

- 3.1 In September 2015 Cabinet considered a range of options for the future delivery of council housing management and maintenance services. This consideration was based on information from a high level option appraisal that had been commissioned and carried out by the Housing Quality Network (HQN) and included engagement with key stakeholders.

- 3.2 Cabinet narrowed down the options and requested officers to do more work on the issues and implications of the option to merge KBS and KNH and of awarding a longer term management agreement in relation to the future delivery of housing functions and services.

- 3.3 KNH is an Arms Length Management Organisation (ALMO) established by Kirklees Council in 2002. KNH is a wholly owned Teckal company and as such is a subsidiary of the council.

Local authorities can enter into a contract with a company which is owned by them without competitive tendering provided that the company does not trade significantly with external organisations. There has been a lot of case law on this and the recent EU procurement regulations have tried to clarify/crystallise the position. This is known as the Teckal exemption from procurement rules. The council must have decisive control and influence over decision making to be treated as a Teckal company. There are more references to this elsewhere in the report.

- 3.4 KNH was set up to deliver improvements to the condition of the Council’s housing stock through the Government’s Decent Homes programme and to improve services to tenants and leaseholders. KNH successfully delivered the Decent Homes Programme and has continued to improve tenant satisfaction with services provided.

- 3.5 The current agreement with KNH to manage and maintain the council’s 23,000+ homes expires in March 2017.

- 3.6 KBS provide a range of repairs and maintenance services and currently has an annual turnover of around £40m. Around 80% of its work is on council homes funded by the Housing Revenue Account and around 20% of its work and funding comes from facilities management for the council and some schools. In addition KBS has recently started to pilot an expansion of its activities to cover work in the

private sector in areas such as gas servicing, the aim being to generate income to reinvest in services.

4. Approach – Option Appraisal

4.1 Further work on the option to merge KBS and KNH alongside the existing status quo arrangements has included:

- Cabinet narrowed down the initial options to focus on the merger of KBS and KNH in the report to Cabinet dated 22 September 2015. This is available on the Council's website. That high level appraisal indicated that this was the option which best supports the Council's strategic priorities and takes account of the key drivers for reviewing the delivery of housing management and maintenance services. (2.1 and 2.2 above)
- A review of and further consideration of the information on the two options, status quo and merger, carried out by HQN (Appendix 1). This included the pros and cons of each and the opportunities and risks of each along with a high level cost benefit analysis to understand their value. Using a good practice guidance note for Local Authorities on the appraisal of the options for the management and maintenance of their stock produced by the 'Council with ALMOs Group' as a framework for further work on the two options.

4.2 The following section sets out an appraisal of the merged option against status quo arrangements using a range of criteria taken from the Council with ALMOs Group framework mentioned above and considers the points outlined in 2.1 and 2.2 above.

A merger could take a number of different structural forms. For the purpose of this appraisal in 4.2 and the rest of this report we have assumed the most straightforward option which is that KBS transfer to KNH and the new organisation remains a wholly owned company of the Council. This is for simplicity but other structural options could emerge in the future. This is considered later in the report as is new ways of working in a new merged organisation.

4.2.1 Design and scope

Consideration has been given to how well each option contributes to the strategic objectives and vision set out in 2.1

- The merged option and status quo option both provide the ability to work with communities to contribute to the neighbourhood offer. As a merged ALMO with the anticipated 'wider brief and offer' there is the potential for greater opportunities to contribute to regeneration, sustainability and new build initiatives.
- A secondment of KBS staff to KNH has been considered following representations from the Trade Unions but this would not achieve the required structural shift into a single organisation. As a merged, larger organisation, there is a potential to mobilise resources in an innovative way to work differently and contribute to broader strategic outcomes.

4.2.2 Governance, accountability and participation

The following governance issues need to be considered:

- KNH is a wholly owned subsidiary of the Council. Existing performance and financial governance arrangements have developed over time but a governance review would need to be undertaken to ensure arrangements are fit for purpose for a merged larger organisation and a new relationship which recognises that the Council wishes to explicitly commission outcomes from the new organisation.
- Governance arrangements would need to be appropriate to the scope and size of any organisation and in this case for the reasons outlined later, must satisfy the following two Teckal company tests:
 - The control test – the contracting authority must be able to exercise control over the other entity (the Teckal Company) as if it were an internal department of the contracting authority; and
 - The function test – the Teckal company must provide the essential part (i.e. the majority/80%) of its services to the contracting authority which controls it. Teckal companies can only trade with the private sector up to 20% of turnover or risk losing Teckal exemption.
- Clarity regarding roles and responsibilities are important in both options. A merger will focus attention on and drive a review of the roles and responsibilities so that they are clearly articulated and understood by all and so that decision making and delegations are transparent. The Council will have over-arching strategic lead and decisions will be informed by data, intelligence and views of the merged organisation which will then implement change and Council policy.
- A merged option offers a more integrated approach to quality core service delivery around housing management and maintenance and therefore improved services to tenants as key stakeholders.
- Although KBS and KNH work collaboratively under existing arrangements it is considered that working together as one organisation would lead to the development of a more robust combined analysis of the sustainability of our neighbourhoods together with stock condition to inform the asset management strategy and 30 year business plan.

4.2.3 Financial assessment

A range of financial issues and challenges need to be considered in relation to both options, these are set out below.

- The challenging impact of the 1% rent reduction for four years from 2016/17 and the need to balance the HRA have to be addressed and managed. It is considered however that the long term health of the HRA is probably more secure under a merged option as greater efficiencies and mutual outcomes are better achieved through economies of scale, increased flexibility and the opportunity to drive growth.

- Working together as part of one organisation should enable the delivery of improved efficiency and value for money services. Increasing the opportunity for ensuring for example that repairs and maintenance is an investment in the stock as well as a service to tenants.
- One of the main benefits and strengths of combining the two organisations is the increased potential for reducing overall operating costs and identifying efficiencies and savings. It is likely that there will be overlap in certain functions and suggested that the following areas are explored further:
 - Leadership and management tiers.
 - Business and administrative support.
 - New business and commercial activities.
 - Investment and repairs and maintenance; client / contractor roles across KNH and KBS.
 - Similar functions and roles carried out by existing KNH and wider council staff for example in relation to advice and support, community safety and anti-social behaviour, community/tenant engagement, street scene activities including grounds maintenance and the removal of bulky waste items and back office functions.
 - System and IT integration.
 - Procurement of goods and services and the potential for sharing locations.

The above areas are merely indicative; it is expected that the merged organisation would put forward its own proposals to achieve any financial targets within the overall policy established by the Council to satisfy the Teckal requirements.

- The Council's external tax advisors have advised on the tax implications from the proposed merger. In relation to Value Added Tax (VAT) there would most likely be no VAT consequences for KNH, as the merger is likely to meet transfer of a business as a going concern ('TOCG') conditions. The Council may be in a slightly better position as well with regard to its partial exemption position. In relation to corporation tax it is recommended that further work be undertaken in conjunction with the Council's external tax advisors to clarify the corporation tax status of services to be provided back to the Council. While the housing element (80% of building services turnover) will most likely be non-taxable, there is less certainty with regard to non-housing services to be provided back to the Council. The Council is exempt from corporation tax on any profit earned from external traded activity. This exemption does not apply to KNH. (See Section 7)
- Pension scheme terms and conditions for individual employees will remain the same as a result of the transfer. From an employer perspective, in the event of there being any accrued pension liabilities of KBS employees at the point of transfer, the Council and KNH would have to agree how these might be funded.

4.2.4 **Quality of service**

The provision of quality services to tenants and residents is a key requirement of any housing service. Consideration has been given to how each option will achieve quality services.

- Bringing together two well performing organisations which have natural synergies provides opportunities to work in different ways to deliver services, to innovate, minimise the impact of budget reductions, increase productivity and build a positive culture for the future. The merger would build on the strengths of both organisations resulting in quality integrated services to tenants.
- The artificial divide that currently exists between the 2 prohibits whole systems thinking and encourages performance being viewed compartmentally instead of across the piece. This means it is not possible to generate true end to end efficiencies which impacts on the ability to make a difference for the people of Kirklees and provide the highest possible value for money.
- Integration and a longer term Management Agreement would lead to better planning, greater efficiency of delivery and better front line services to tenants.
- A merger would enhance the opportunity to maximise the significant link between tenant satisfaction with repairs and maintenance and overall satisfaction levels. Under existing arrangements it is difficult for some to make a distinction between KBS and KNH and people often mix up KNH with the Council.
- Ultimately, people want a good service regardless of who provides it but the opportunities to improve service appear to be greater in the option to merge KBS and KNH.

4.2.5 Quality of employment

The following sets out how each option will impact on the quality of employment.

- The Council and KNH aspire to be employers of choice and to offer their employees fair and flexible terms and conditions of employment. The merger offers up an opportunity to provide broader employment and career opportunities, to work in a more cross functional way and to look at skills needed for the future to attract and retain staff.
- As a top 100 not for profit company to work for, with gold Investor In People accreditation KNH has demonstrated its commitment to providing an excellent working environment and remains committed to staff involvement and development. KNH recognise the positive role that trade unions play in this relationship. This alongside the positive work in KBS in relation to cultural change, improved communication and performance provide a sound platform on which to build.

4.2.6 Capability, management and intellectual knowledge

This section considers organisational change and key skills needed in the future.

- The KNH Board are proud to be a council owned housing company working in close partnership with the Council on shared strategic objectives based on common values and has demonstrated this over the years by aligning their plans and programmes. The KNH Board has restated its commitment to building on and taking to the next level its partnership working with the Council. The KNH Board will have a key role to play in making the merged organisation and

the partnership relationship with the Council a success. There will be increased opportunity through the KNH Board and staff to share and bring in new skills, expertise and resources to benefit both existing and new customers.

- The best elements of the Performance Management frameworks from both organisations can be brought together to further drive improvement.
- Communication within a combined organisation is likely to be more effective than communications between two separate organisations leading to improved change and performance management.
- A merger should provide greater opportunity to collate intelligence and use it to inform both business improvement and development and influence strategy in its broadest sense.

4.2.7 **Organisational arrangements**

Consideration has been given to how organisational arrangements will affect flexibility and responsiveness in a variety of situations.

- Given the challenges outlined above, the purpose of a merger between KNH and KBS is to create a new single organisation that is strategically light on its feet to enable it to adapt to challenges, emerging markets and work to a common cause.
- A merged organisation that brings together functions would be well placed to develop new and different partnerships and collaborations and expand its work on the wider housing and regeneration agenda, for example exploring different housing products such as shared ownership and sale to generate income and further down the line to explore alternative subsidiary options.

4.2.8 **Added value**

Consideration has been given to what the options offer over and above the core requirements including community benefits.

- Both options provide opportunities to contribute to wider strategic priorities such as:
 - The role housing can play in the future in relation to the delivery of the economic ambition locally and regionally.
 - Advising and supporting vulnerable people early so as to prevent or delay the need for more specialist care and support.
 - Promoting health and wellbeing initiatives
 - Supporting people to be economically resilient.
 - Encouraging communities to do more for themselves and each other.
- The merged option however has the potential to play a bigger part through its combined frontline staff out and about on council estates working with a common purpose on such added value initiatives. In addition the merged option provides the opportunity to generate more income which could be invested in added value services to tenants and residents.

4.2.9 Corporate impact on the authority

Consideration has been given to the impact of each option on the efficiency and effectiveness of Council services.

- Both options support the continued joint provision of access to service via the Council's Front Door. The merger offers further opportunity to streamline and improve access jointly via all Council channels.
- Council support operations – KBS and KNH both currently 'buy' support services from the Council. These include Legal, Transport and IT and total circa £10m. It is anticipated that the merged organisation would continue to purchase services from the Council, but that there should be consideration of whether the current boundaries between the Council and new merged organisation makes sense as well as a requirement for continuing improvement in value for money from services "bought in" from the Council.

5. Conclusion of the Option Appraisal

5.1 The more detailed appraisal of the options to merge KBS and KNH and the status quo arrangements adds weight to the conclusions drawn by HQN following the initial high level option appraisal. On balance the option to merge KBS and KNH offers the most potential for:

- Improving housing services across the piece based on quality integrated services to tenants and their communities.
- Identifying efficiencies to help address the challenge of the 1% rent reduction including contributing to achieving a balanced HRA.
- Continuing to support the Council in achieving its overall strategic objectives.

6. Expectations of a Merged Organisation

6.1 Should a merger be approved it is proposed that the council would commission the new merged organisation (KNH) as an Arms Length Management Company (ALMO - a local authority wholly owned 'Teckal' company) to deliver housing management and maintenance services. It is also proposed that the merged organisation would continue to carry out building services work in relation to the Council's corporate buildings and some schools. This would need to be set out in appropriate documentation. It is expected in relation to non-housing work that the merged organisation would be able to demonstrate maximum value from the budgets available via benchmarking and transparent costing models, achievement of agreed performance measures and standards in relation to the timeliness, cost and quality of works completed and an understanding that the volume of work available cannot be guaranteed as a result for example of school academisation and reductions in Council assets. The mechanism for agreeing procurement decisions would be considered further and agreed prior to the formal merger of the two organisations.

6.2 It is expected that the new organisation would adopt a more commercial approach in order to generate additional income. Should the new organisation in future wish to consider significantly expanding its commercial activity and trading operations

(more than a Teckal company structure allows) and so consider changing its company structure this would be subject to the agreement of the Council.

- 6.3 Clear contractual arrangements which set out the expectations and relationship for the longer term including regular review would be set out in a new or appropriately amended set of documents. The set of documents supporting the governance of the new organisation would include the Management Agreement, Memorandum and Articles of Association, the HRA 30 year Business Plan including the Asset Strategy and Plan and the Kirklees Delivery Plan for KNH. The set of documents would be developed in the period following the decision to merge but prior to the merged organisation being formally established.
- 6.4 The detailed expectations of the new organisation in relation to core and other functions and a performance framework would be set out in the Delivery Plan referred to above. This would be reviewed annually and would form the basis of discussions around the annual setting of the Fee. The core housing management and maintenance and other corporate buildings and schools functions are set out as an Appendix to this report. (Appendix 2)
- 6.5 Governance arrangements between the Council and the new organisation and within the new organisation would need to be reviewed and strengthened. This would include the establishment of robust outcome focussed performance management arrangements and being clear about what performance reports and other information the Council would require from the merged organisation. This would ensure the arrangements are fit for purpose, provide clarity around roles, responsibilities and accountability and include a strong connection to and influence from the council and tenants and residents.
- 6.6 It is expected that the merged organisation will, as KNH do now believe in tenant involvement and the need for tenants voices to be heard, focus on positive outcomes for tenants and communities and will continue to involve tenants and residents and their representatives in shaping the delivery of future services.
- 6.7 It is expected that the new organisation would use the Council's financial procedure and contract procedure rules as the framework for managing its financial and procurement affairs.
- 6.8 Under TUPE regulations affected Kirklees Council staff would transfer into the ALMO. It is expected that both the Council and KNH would comply with TUPE regulations.
- 6.9 The Council would continue to have overall responsibility for the HRA but it is expected that the Council and the new organisation would jointly identify ways of meeting budget challenges including the 1% rent reduction and producing a balanced HRA.
- 6.10 Throughout the housing sector there is a trend towards awarding longer term Management Agreements to ALMO. Longer term Management Agreements are said to allow for greater strategic planning and also reduce costs and distractions associated with undertaking regular and complicated reviews both for the Council and the ALMO.
- 6.11 If Cabinet approves a longer term Management Agreement (20 years) a fit for purpose modernised set of documents would be needed. It is proposed that these

would include appropriate 5 yearly review/break clauses. These clauses would set out specific requirements in relation to both operational and financial tests and include robust performance measures, monitoring and liaison arrangements. The Management Agreement would make it clear that the new organisation will not take action to the detriment of the Council. As now, appropriate clauses will be included in order that the Council can terminate the agreement if there is a serious and substantiated risk that the company is not complying with its obligations.

It is proposed that these documents and clauses would be jointly developed post a decision to merge the two organisations but that they would need to be approved and signed before the merged organisation is formally established.

7. Implications of a merger for the council

7.1 Finance

The Council would be commissioning the new organisation to substantively provide housing management and maintenance services, and other non-housing maintenance services currently provided to the Council by KBS. The associated cost of delivering such value for money services and for maintaining the housing stock will be based on the requirements of the Delivery Plan and also be linked to the assumptions set out in the Housing Asset Management Strategy which will then determine the Fee to be paid.

KNH current annual turnover is circa £15m. KBS turnover of £40m would transfer to the new KNH. This being the case it is anticipated that the newly merged organisation will from April 2017 onwards have an annual turnover of an amount in the region of £40m to £55m.

Currently, about 80% of annual KBS turnover supports HRA activity, and 20%, non-housing Council activity.

7.1.1 Tax implications

The Council commissioned a specific report from its current external corporate tax advisors, PWC. The headline issues drawn out from the report are set out below.

Value Added Tax (VAT)

- KBS merger with KNH would likely fall within 'transfer of going concern' criteria i.e. non-business supply transferred. There would therefore be no consequences for the new organisation's VAT position resultant from the merger.
- Council's partial exempt VAT position (which must be maintained to ensure ongoing full VAT recovery) - to the extent that any new organisation supply relates to any exempt activity undertaken by the Council, the Council will need to consider its own partial exemption position i.e. ensure it remains within its de minimis limit to be able to continue to recover VAT in full. However, the Council's de minimis limit will improve by default due to the increased amount of VAT charged on the turnover of the merged organisation under the merged option.

Corporation Tax

- The Council is exempt from corporation tax from any profit earned on third party trading activity including work for another Council, schools including Academies, Trust and LEA schools or the general public. This exemption does not extend to the ALMO, which is liable for corporation tax (currently 20%) on any profits made from 'trade' (i.e. to 3rd parties outside the Council).
- To the extent that services are provided back to the Council under the merger option, the housing element (80% of current building services annual turnover) would possibly fall outside the scope of traded activity for corporation tax purposes if grouped with existing ALMO arrangements.
- Non-housing services (the remaining 20% of building services annual turnover) provided back to the Council under the merge option may fall outside the landscape of existing ALMO arrangements, and the profit on this activity may be found to be subject to corporation tax.
- It is recommended that further work be undertaken in conjunction with the Council's external tax advisors to clarify the corporation tax status of services to be provided back to the Council; in particular with regard to the non-housing services.

7.1.2 Council Medium Term Financial Plan (MTFP) 2016-19

- The Council MTFP sets out a budget strategy for the HRA which includes savings of just under £5m that will contribute to mitigating forecast annual rent loss of £10.5m by 2020, as a result of national government change from current social housing rent policy, and the implementation of 1% annual rent reduction each year for the next 4 years, to 2020. The HRA has to live within its means as a statutory ring-fenced account.
- However this still leaves a significant HRA 'budget gap' by 2020. In the context of having to produce a balanced budget, and at the same time maintain decency of housing stock as a key long term objective, other more fundamental savings options will need to be explored jointly.
- In the context of a likely annual ALMO turnover of up to £55m, the Council expects that the new organisation will be able to identify significant synergies which will generate cashable efficiency savings to the HRA over the medium term. Subject to more feasibility work over the early summer, as part of the Implementation Plan, it is expected that savings will be identified and incorporated in the next and future budget rounds and will inform the setting of the Fee in relation to the services commissioned.

Other

- The Council MTFP includes a trading income target for KBS activity over the 2016-19 period; £50k in 16-17, increasing to £100k in 17-18 and £150k by 18-19. This is currently a general fund income target. As a result of a merger, the current general fund income target would no longer apply. From 2017-18 onwards there would be a need to review the arrangements and targets in relation to traded income.

- The mechanism for dealing with the benefit of any fee surplus or profit on trading activity from the merged organisation from 2017 onwards would need to be agreed between the Council and KNH during the implementation phase. Albeit any profit earned from external trading will be subject to 20% corporation tax.
- The implementation phase prior to the merger up to April 2017 will identify a range of activity and resource requirements. At this stage, it is anticipated that any such 'one-off' costs can be met, once identified, through HRA reserves. Progress on this can be reported in-year to Cabinet as part of the established quarterly corporate financial monitoring process.

7.1.3 Pension liabilities

- Net pension deficit balance sheet liabilities included in the annual accounts of the Council and KNH, are subject to separate calculations which reflect the specific characteristics of their respective organisational workforces. Similarly, separate calculations are undertaken for assessing future year employer annual cash contribution rates to the West Yorkshire Pension Fund (WYPF). This is a tri-ennial actuarial exercise. Current Council and KNH rates may differ.
- The transfer of existing Council staff to the new organisation resultant from the merger option may result in an increase in the net pension liabilities on the KNH balance sheet, and a net reduction on the Council balance sheet. However, the Council already underwrites the net pension liabilities of ALMO, and confirms this annually with KNH external auditor. It is anticipated that this will continue under the merged option, in which case the net Council overall 'risk' as regards the new organisation pension liabilities, is ultimately unchanged.
- The Council in conjunction with KNH would:
 - Have to agree the basis of funding any potential accrued pension liabilities of KBS employees at the point of transfer.
 - From the point of transfer, the actuary would determine the revised employer contribution rates for both the Council and the new organisation, at the point of transfer.

7.1.4 Council support operations ('overheads') bought-in by the new merged organisation

- Current annual turnover is £40m for KBS and £15m for KNH; combined annual turnover of £55m. Council 'overheads' account for about £10m of the combined annual turnover, equivalent to 18%.
- The 2016-19 MTFP includes a number of target savings assumptions across a range of Council general fund support operations. The MTFP also assumes that the HRA will receive its share of support operation savings from Council services, with a target HRA saving of £300k from 2016-17 against the 'Council services bought-in' activity line. KBS are a key customer for a number of current Council support operations, such as Kirklees Direct, Transport Services and HD-One.
- If the newly merged organisation were to consider alternative service provision for current Council support operations bought-in, this would then require a more fundamental review of current 2016-19 MTFP budget assumptions and impacts

underpinning a number of current Council support operations, including their future viability in terms of economies of scale and value for money. It is anticipated therefore that the new organisation would continue to purchase Council support operations, agreement about how this will be managed going forward will be required as a pre-condition for any merger.

7.1.5 Corporate treasury management

- A consequence of the merge is that there will be a corresponding change in cash-flow considerations for both parties. In particular, consideration will need to be given to ensuring that a newly merged organisation has sufficient daily cash-flow to manage its payment commitments (staff/materials etc) on an annual turnover of up to £55m, compared to £15m current turnover.
- The Council would be commissioning the new merged organisation to provide housing management and housing repairs and maintenance services and be paying a fee (in an amount still to be determined but in the region of £38m) for doing so from the HRA. It is anticipated that the fee element would continue to be paid as it is now i.e. monthly in advance, in equal monthly instalments.
- The non-fee capital element could be up to £17m per annum (assuming 100% of KBS current activity, transfers to ALMO). The Council would need to give consideration to payment 'on account', for this element of work, adjusted at each year end (or periodically through the year), in order for the merged organisation to be able to manage its cash-flow reasonably.
- Corporate accountancy advice is that the above arrangements would not have a net material impact on the Council's overall strategic treasury management policy and treasury management budget position over the 2016-19 MTFP, from current.

7.2 Legal and Governance

- 7.2.1 The Council has the legal powers necessary to transfer KBS to KNH (a local authority wholly owned 'Teckal' company) and for the provision of services by KNH to the Council by way of contract. (*Local Government (Contracts) Act 1997 (S.1)*). *Local Government Act 1999 duty to secure economy, efficiency and effectiveness in the provision of services – duty of Best Value (S.3)*. *Localism Act 2011 (General power of Competence (S.1)*). *Local Government Act 1972 (incidental Powers) (S.111)*.
- 7.2.2 The Housing Act 1985 (S.27) requires local authorities to seek Secretary of State approval to appoint an ALMO to exercise housing management functions. Approval to appoint KNH was given in a letter dated 28 March 2002. The approval was subject to the condition that the Council must give the Secretary of State one calendar month's notice of any significant changes and take account of any comments made. It is considered that the extent of the changes being proposed at this stage are not significant and that therefore Secretary of State approval is not required. However based on the experience of other Local Authorities which have taken the decision to merge Building Services and ALMO it is proposed that the Secretary of State is notified of the proposed changes as a matter of courtesy at an appropriate time.

- 7.2.3 The Council can rely on Regulation 12(1) of the Public Contracts Regulations 2015 (Teckal exemption) to make a direct award of the contract to KNH. This exemption from EU procurement rules applies where the Teckal company satisfies two tests:
- The control test – the contracting authority must be able to exercise control over the other entity (the Teckal Company) as if it were an internal department of the contracting authority; and
 - The function test – the Teckal company must provide the essential part (i.e. the majority/80%) of its services to the contracting authority which controls it. Teckal companies can only trade with the private sector up to 20% of turnover or risk losing Teckal exemption.
- 7.2.4 KNH is an example of a Teckal company which provides housing management and maintenance services back to Kirklees Council. The existing Management Agreement with KNH could be reviewed and updated to reflect the merger of KBS and KNH. Kirklees Council will remain the sole corporate Member. Should in future the new organisation wish to change its legal company structure it would need approval from the council. The Council would need to have regard to the impact of such changes on the Management Agreement and Teckal status as appropriate.
- 7.2.5 The Local Authorities (Goods and Services) Act 1970 enables the Council to enter into agreements with other public bodies for the supply of goods or materials, the provision of administration, professional or technical services, the use of plant or carrying out works or maintenance but not construction. As KNH is designated as a 'public body' under the 1970 Act support services can be provided by the Council to KNH on a commercial basis. (See section 7.1.4).
- 7.2.6 State Aid and the use of council land (Leases/Licences and disposal) and other assets must be taken into account prior to the formal merger to ensure that the council complies with state aid law and the Local Government Act 1972 (S.123).
- 7.2.7 The Council and the KNH Board would both need to understand the contractual and resource liabilities of both KBS and KNH and take into account any associated risks and any legal requirements on the Board under the Companies Act prior to the merger taking place.
- 7.2.8 Governance will need to be appropriate to the scope and size of the newly merged organisation and satisfy the Teckal Company 'control test' (See 7.2.3). A full governance review will need to be undertaken as appropriate.
- 7.2.9 The decision to merge KBS and KNH and for services to be provided back to the Council by way of contract will be an executive decision under the Local Government Act 2000. The Executive may arrange for the discharge of any of their executive functions by an officer. Any arrangements made for the discharge of executive functions by an officer do not prevent the Executive from exercising those functions. If the merger is approved by Cabinet the Council's Constitution will need to be revised to reflect the new arrangements at the next Annual Meeting. The Assistant Director Legal, Governance and Monitoring has the delegated powers to update the Constitution.

7.3 Human Resources – Workforce

7.3.1 TUPE was introduced to meet the obligations under a European Directive to ensure the protection of employee rights when there is a ‘transfer of an undertaking’.

- A relevant transfer can be either a transfer of an undertaking, business or part of an undertaking or a “service provision change” under Regulation 3(1) (b) (i) involving the outsourcing, retender or insourcing of a service where immediately before the transfer there is an “organised grouping of employees” whose principal purpose is to carry out activities on behalf of the Council and the activity is fundamentally the same and not a single specific event or task of short term duration. The proposed merger would constitute a ‘service provision change’.
- In circumstances where TUPE applies, the Council KBS employees (in the region of 500 staff) transferred will become employees of the transferee (KNH in this case) by virtue of the statutory novation of their employment contracts under TUPE. (KNH has in the region of 360 staff). All existing rights and liabilities in relation to transferring Council employees will transfer to the newly merged organisation. The position of Council support staff (e.g. Finance, HR, IT) will be subject to further discussion during the implementation phase. Where TUPE applies it does so by operation of law and the parties cannot contract out of it. The intention is that all affected staff will transfer to the new organisation on or before 1 April 2017.
- The TUPE regulations include a duty to inform and potentially consult with trade unions in relation to any of their members, who may be affected by the transfer or by ‘measures’ taken in relation to it. If an employer recognises a trade union, they must consult with that union. Both the Council and KNH will have to ensure that they comply with these duties. It is proposed that the HR service in the Council and KNH will work together on a timescale for TUPE and the provision of information and consultation with staff/trade unions.

7.3.2 Terms and Conditions of Employment – Employees transferring from the Council to the new merged organisation will TUPE transfer on their existing terms and conditions of employment including continuity of service. The Council and KNH have similar but not the same terms and conditions of employment. Further work to identify the differences around for example single status and any pay differentials will be required as will consideration the merged organisations human resource policies and procedures.

7.3.3 Pensions – The West Yorkshire Pension Fund (WYPF) have confirmed that the legal status of KNH in the Local Government Pension Scheme (LGPS) is as follows:

- KNH is eligible to participate in the LGPS as a Scheme employer under paragraph 21 of Part 1 of Schedule 2 of the LGPS Regulations 2013. Therefore, employees, with a contract of at least 3 months, employed by KNH have an automatic entitlement to be a member of the LGPS. As a body listed in Part 1 of Schedule 2 there is no requirement for Kirklees Neighbourhood Housing to have a guarantor or obtain a bond from an approved provider.

Pension financial liabilities as a result of the proposed transfer of Council employees to the new organisation are covered in section 7.1.3 above.

- 7.3.4 The basis upon which trade unions are recognised by both organisations will be in line with the principles and agreements adopted by the Council.
- 7.3.5 The Council will need to take account of the Public Sector Equality Duty (Equality Act 2010 (S.149) and consider the need for an equalities impact assessment for the service in relation to the staffing implications of the proposal. The Public Sector Equality Duty will need to be weaved into the new / amended Management Agreement with the new organisation.

8. Consultees and their opinions

8.1 The Council has a duty under the Local Government Act (S.3) and the Housing Act 1995 (S.105) to consult with:

- Representatives of local taxpayers, representatives of persons who are likely to use services provided by the authority, representatives of persons appearing to the authority to have an interest in the area. (Including voluntary and community organisations and small businesses)
- Its secure tenants when they are likely to be **substantially** affected by the way it contracts to provide services and on matters of housing management.

8.2 In order to comply with the requirement to consult a reasonable and proportionate engagement and consultation plan has been used to manage the process. Information regarding the key stakeholders consulted on the potential merger of KBS and KNH and a longer term Management Agreement and their views are summarised below. This consultation has built on the feedback provided following the engagement exercise carried out by HQN as part of the initial option appraisal. More specific detail on the timeline and views from the consultation is provided at Appendix 3.

8.3 Consultees have included:

- Kirklees Council Political Groups
- Tenants and Residents representative including Communities Who Can and KNH Tenants & Residents Committees
- Tenants and residents and schools and the wider public via an online questionnaire
- Overview and Scrutiny Management Committee
- KNH Board
- Trade Unions – GMB / Unite / Unison (see 8.4 below)
- Kirklees Council and KNH officers.

8.4 Broadly speaking those consulted are in favour of a merger between KBS and KNH. Unison and GMB have not yet submitted their final views and have indicated they will submit a letter setting out their position to be tabled at the Cabinet meeting. The Unite response is included at Appendix 3F. Consultees have raised a number of relevant considerations which have either been addressed in this report or will need to be considered and addressed further following a decision to merge but prior to the merger being formally approved and the new merged organisation established.

9. Implementation Plan and Conclusion

- 9.1 An outline implementation plan can be seen at Appendix 4. This sets out the proposed steps/ actions which will need to take place to enable the merger to proceed as described above. Initial implications have been identified and have been noted earlier in this report (Section 7). Implications include, financial, tax and pension issues, legal and governance, including the setting out of roles and responsibilities and decision making; human resources, TUPE, workforce and organisational development issues.
- 9.2 A joint project board will be established to address the outstanding issues and deliver the implementation plan with the overall aim of bringing the two organisations together to deliver the commissioned services and the wider strategic outcomes set out earlier in this report.
- 9.3 Further detailed steps/ actions may emerge once implementation is embarked upon. With this in mind, the decision to merge can be given subject to satisfactory completion of the plan and in the absence of matters/ issues arising that would be to the detriment of the Council.
- 9.4 In conclusion, having considered the option appraisal, the identified implications and the views of consultees, it is considered on balance that the option to merge KBS and KNH still offers the most potential for delivering the strategic objectives set out.

10. Next steps

If the decision is taken to proceed:

- 10.1 Officers will undertake the additional work set out in the recommendations and prepare an update report to Cabinet before the legal completion of the transfer arrangements on or before 1st April 2017.
- 10.2 It is proposed that KNH and KBS staff will formally be brought together to develop a detailed joint implementation plan as part of this process.

11. Officer recommendations and reasons

- 11.1 Note the Council's high level option appraisal included at 4.2 above together with the appraisal commissioned by the Council from HQN at Appendix 1 as well as the information in this report and agree the recommended approach to transfer the Council's building maintenance DSO (KBS) to KNH Ltd including staff as well as responsibility for operational repairs and maintenance services to council houses; other council owned premises and work for some schools ('Proposed Transfer') from or before 1 April 2017; subject to the satisfactory resolution of Legal, Financial, HR etc issues highlighted above in this report and below in the recommendations.
- 11.2 Note the financial implications of the proposals shown at 4.2 and 7.1 of this report and the further work required by officers before it is possible to make a final decision in relation to the Proposed Transfer.

- 11.3 Note the legal framework set out at 7.2 of this report the Council's legal powers to enter into the proposed transfer arrangements and the further work required before it is possible to make a final decision in relation to the Proposed Transfer.
- 11.4 Note the responses to the statutory consultation exercises under section 3 Local Government Act 1999, and section 105 Housing Act 1985; and the Council's response at section 8 of this report. (Also see Appendix 3)
- 11.5 Note the proposed arrangements at 6.9, 7.1.4 and 7.2.5 in relation to Service Level agreements between the Council and KNH.
- 11.6 Note the HR implications at paragraph 7.3 and authorise the TUPE transfer of all affected council employees 'in scope' and the provision of information and consultation as appropriate with trade unions.
- 11.7 Note the project management arrangements as set out in 9.2, which will be responsible for ensuring the outstanding financial, legal, HR and organisational issues are addressed.
- 11.8 Delegate authority to the Director of Place or her authorised representatives to progress the matters, including amongst other things, those listed in the Implementation Plan, to effect the Proposed Transfer; in accordance with the Council's Contract Procedure Rules, the award of a new 20 year Management Agreement, covering housing management and building maintenance services; a new delivery plan; leases of relevant premises; appropriate valuations based on market rate; consents as considered appropriate; and any other ancillary documentation to effect the transfer and commencement of a new agreement from or before 1st April 2017 and it is noted that if further risks are identified or there are material changes to any issues that emerge, a report will be brought back to Cabinet for further decision.
- 11.9 Delegate authority to the AD Legal Governance and Monitoring to sign, seal (as appropriate) and enter into on behalf of the council, any documentation (including but not limited to) leases, a new 20 year Management Agreement, for housing management and building maintenance and repair services and other associated and or ancillary documentation to effect the transfer of services to KNH; and update the Council's Constitution as required.

12. Cabinet portfolio holder recommendation

- 12.1 Cabinet Portfolio holder supports and is in favour of the merger of Building Services and KNH. This is an excellent opportunity to combine two organisations and bring the best out of them both. There are great opportunities ahead but today I want to assure you we will maintain our service delivery to our tenants, our communities and our staff.

13. Contact officer and relevant papers

Helen Geldart, Head of Housing Services
Tel: 01484 221000
Email: helen.geldart@kirklees.gov.uk

Background Papers : Report to Cabinet, 22 September 2015 – Future Options for the Delivery of Housing Functions and Services (including repairs and maintenance)

14. Assistant director responsible

Kim Brear, Assistant Director, Place
Tel: 01484 221000
Email: kim.brear@kirklees.gov.uk

HQN Merge KNH & KBS

| Pros | Cons |
|---|---|
| <ul style="list-style-type: none"> ▪ Clear opportunities for efficiencies and therefore savings ▪ The Council has already charged the DLO with generating surplus – the changes needed to move to a more commercial approach would be facilitated ▪ The ALMO has demonstrated effective governance and accountable links back to tenants; this would encompass a key front line service (repairs) ▪ Decreased direct exposure to reductions in finance and therefore lower risk of job losses ▪ Surpluses would have some protection from Council cuts and pressures, and could be directed to priorities around housing supply and community sustainability ▪ Change programmes to deliver the merger would also be an impetus to improve and modernise ▪ Repairs and asset management programmes would be run together with other landlord services supporting better planning alongside greater efficiency of delivery ▪ Integration would lead to better front end services to tenants ▪ In establishing the new arrangements the Council would maintain some control (through the management agreement and delivery plan) of the future investment plans, strategies and service performance, whilst gaining the benefits of focused leadership and management of the services ▪ An enlarged ALMO organisation would also offer opportunities for other services to be delivered in this way (such as housing options, adaptations, tenancy support), increasing the potential for efficiencies and integration ▪ A larger organisation has greater capacity and reach to contribute directly to regeneration projects (employment, apprenticeships, social enterprise options) ▪ DLO exposure to commercial expertise via independent board members ▪ A merged organisation would create the potential for efficiency savings to offset the loss of income generated by the rent formula reduction | <ul style="list-style-type: none"> ▪ Efficiency savings would, in part, be in back office services supplied by the Council and would therefore increase pressure on those budgets. (General Fund) ▪ The DLO would be outside direct control of the Council and therefore alignment of priorities is more subject to relationships and partnership and less to specific in house decisions ▪ Repair services for other Council owned assets would be subject to a contractual relationship (which may also be a positive) ▪ There may be some union opposition to another Council service being moved out ▪ Does the DLO have the required leadership, capital, skills and commercial culture to compete effectively and therefore generate commercial activity and surpluses (at scale)? |

HQN Status quo

| Pros | Cons |
|--|--|
| <ul style="list-style-type: none"> ▪ Avoids any distraction of effort away from dealing with key service issues created by a 'reorganisation' ▪ Maintains the existing, successful approaches and relationships ▪ The Council would maintain direct control of the DLO and Strategic Housing Services, and therefore be able to make decisions on priorities, resource usage and programmes/policies ▪ Council corporate services would maintain their 'client base' | <ul style="list-style-type: none"> ▪ Opportunities to drive growth, and service efficiency in order to create investment options would be more limited ▪ All services would, to varying degrees, continue to be exposed to reductions in Council resources ▪ The ALMO would continue to be reliant on agreement of its management fee, and so have ongoing uncertainty around future investment and service development capacity ▪ Current frustrations at limitations on the use of resources to meet Council objectives would continue ▪ Opportunities to improve services through integration and greater synergy between ALMO, Strategic Services and Building Services would be lost ▪ Options to mitigate lost rental income arising from the 1% annual rent cut would be limited. |

Core functions

It is expected that the merged organisation align with the Council's strategic aims and the outcomes and outputs and contribute towards the Council's key strategic objectives. The merged organisation would also have a key role to play in the delivery of the Housing Commissioning Strategy's key priorities and outcomes outlined in Section 2 of this report. Functions include the management and maintenance of over 22,000 Council homes and over 900 leaseholder properties and maintenance of other corporate buildings and some schools.

Key business activities include, but are not limited to:-

- a. Tenancy management / sustainable communities
- b. Estate management
- c. Lettings, voids and best use of stock
- d. Rent and financial management / recovery of other charges
- e. Financial planning and accounting
- f. Right to buy – cost floor identification
- g. Housing advice
- h. Leaseholder functions
- i. Tenant involvement and participation
- j. Management of other assets e.g. Council shops
- k. Asset management
- l. Repairs, maintenance and servicing
- m. Procurement.

Engagement and Consultation

The table below shows the engagement and consultation activities that have been carried out in relation to the future delivery of housing functions and services in Kirklees since May 2015.

| Phase | Who with | 2015 | | | | | | | | 2016 | | |
|---------|--|------|------|------|-----|------|-----|-----|-----|------|-----|--|
| | | May | June | July | Aug | Sept | Oct | Nov | Dec | Jan | Feb | |
| Phase 1 | Political parties | | | | | | | | | | | |
| | Council Services | | | | | | | | | | | |
| | Communities Who Can (KFTRA) board members | | | | | | | | | | | |
| | Trade Unions | | | | | | | | | | | |
| | KNH board members | | | | | | | | | | | |
| | KNH officers | | | | | | | | | | | |
| Phase 2 | Cabinet | | | | | | | | | | | |
| | Portfolio holder | | | | | | | | | | | |
| | Political parties | | | | | | | | | | | |
| | Overview and scrutiny | | | | | | | | | | | |
| | Council Services | | | | | | | | | | | |
| | Communities Who Can, Tenants and residents | | | | | | | | | | | |
| | Schools | | | | | | | | | | | |
| | Trade Unions | | | | | | | | | | | |
| | KNH board members | | | | | | | | | | | |
| | KNH officers | | | | | | | | | | | |

During Phase 1 HQN engaged with key stakeholders on the pros and cons of a range of options. These views were included in the report considered by Cabinet on 22nd September 2015.

During Phase 2 of process the following consultees were asked for their views and comments on the proposed merger of KBS with KNH. The feedback from those consulted is appended below.

- a. Kirklees Council Political Groups
- b. Tenants and Residents representative including Communities Who Can and KNH Tenants & Residents Committees
- c. Tenants and residents and schools and the wider public via an online questionnaire
- d. Overview and Scrutiny Management Committee
- e. KNH Board
- f. Trade Unions – GMB / Unite / Unison
- g. Kirklees Council and KNH officers.

3a. Kirklees Council Political Groups

1) Kirklees Labour Councillors

Housing and Building Services Future Options Delivery Models - Formal Consultation
Kirklees Labour Councillors - Summary Feedback
Group Meeting: 4th January 2016

1. Summary

Overall view of Councillors is in favour of the proposal to merge Kirklees Neighbourhood Housing (KNH) and Kirklees Building Services (KBS). Indicated steps must be taken to ensure that by bringing the two together that the strengths of each organisation are built on to create something even better.

2. Comments and considerations

2.1 New organisation structure and name

- Acknowledged that it makes sense to keep the existing KNH legal company structure as it allows the new organisation to do everything that the Council wishes it to do without incurring additional cost.
- Suggested that the new organisation could consider a re-brand or new name to help drive cultural change and bring about a new and different organisation.

2.2 Legal, governance and resource implications

- Noted that Kirklees Council will continue to have significant influence on the newly merged 'Teckal' wholly owned council company and that the management agreement / contract documents must make sure that the Council is able to terminate the contract and if necessary bring services back in house.
- Indicated the importance of understanding the contractual and resource liabilities of both KNH and KBS and of taking into account any associated risks prior to the merger taking place.
- Noted that financial implications of a merger in relation for example to VAT, corporation tax and pensions must be fully understood prior to the decision to merge.
- Noted that the Housing Revenue Account (HRA) must balance and that a merger offers opportunities for greater efficiencies that will go some way towards addressing the implications of the 1% rent reduction – narrowing but not closing the £24.4m gap in expected rental income over the next 4 years.

2.3 Trading and income generation

- Acknowledged the opportunities for external trading within a Teckal company structure especially with other landlords in the public and private sector for example in relation to gas servicing. It was noted that this would not only generate income that could be invested in services to meet council strategic priorities e.g. Extra Care but also help drive up standards in the private rented sector.
- Noted that income generation would, like the merger, help balance the HRA but that in the short to medium term anticipated returns would require a more fundamental review of the HRA in order to balance the account.
- Noted that over time and by developing its commercial expertise that the new organisation could build on any trading success and at that point may wish with the approval of the council to consider a different company structure.

2) **Kirklees Conservative Councillors**

Housing and Building Services Future Options Delivery Models - Formal Consultation
Kirklees Conservative Councillors – Summary Feedback
Group Meeting: 11th January 2016

1. Summary

There was overall support for merging Kirklees Neighbourhood Housing (KNH) and Kirklees Building Services (KBS).

2. Comments and considerations

2.1 New organisation structure and name

- It was noted that the merged organisation would, as KNH is now, legally be a Teckal wholly owned council company.
- Careful consideration should be given as to whether or not to re-brand the organisation and if so to when the best time to do so would be – perhaps after a period of consolidation and cultural change.
- Whilst a separate company it should be expected that back office services should be contracted in from the Council or a more effective provider.

2.2 Legal, governance and resource implications

- The council needs to ensure that there are effective mechanisms in place to review financial and other performance annually and to review the overall contract on a 5 yearly basis. The council must also be able to pull KNH back in if it is not performing or things change.
- The new organisation will have a new senior leadership team which brings opportunities and risks. The pace of change needs to be right if the organisation is to succeed.
- The new organisation should develop a strong drive for service and organisational efficiency which ensures present working practices evolved or are changed to ensure great delivery of effective outcomes. The organisation should develop a new customer focus which supports customers who pay rents and bills on time.

2.3 Trading and income generation

- Strong view that the organisation should focus on what it is good at and on getting the core functions and services of the business right first. Only if the organisation can evidence that it is performing and meeting agreed targets after a period of time, for example 2 years should the council permit it to increase trading activity. Perhaps then should start with other housing organisations.
- The new organisation needs to understand and accept that the level of work on public buildings will reduce.
- Commercial skills need to be developed and the organisation must be able to demonstrate it has earned the confidence of the private sector and can trade competitively before embarking on significant new ventures.

3) **Kirklees Liberal Democrats Councillors**

Housing and Building Services Future Options Delivery Models - Formal Consultation
Kirklees Liberal Democrat Councillors – Summary Feedback
Group Meeting: 18th January 2016

1. Summary

There was broad agreement to the merger of Kirklees Neighbourhood Housing and Kirklees Building Services.

2. Legal, Governance and resource implications

- Concern was raised around the need for appropriate governance to be put in place.

3. Trading and Income Generation

- Consideration should be given to the impact of any trading or external activity on local small businesses.

4) **Kirklees Green & Valley Independent Councillors**

Housing and Building Services Future Options Delivery Models - Formal Consultation
Kirklees Green & Valley Independent Councillors – Summary Feedback
Group Meeting: 11th January 2016

1. Summary

Kirklees Green & Valley Independent Councillors were broadly supportive of the approach to merging Kirklees Neighbourhood Housing (KNH) and Kirklees Building Services (KBS).

2. Comments and considerations

2.1 New organisation structure and name

- If there is a new organisation then a re-brand is needed – something that enables the organisation to operate in the private sector market.

2.2 Legal, governance and resource implications

- Efficiencies through potential merger approach – there was a view that this would be an area to explore further and a change of cultures was required. Examples of potential duplication were identified e.g. waste generated and not recycled. The area of advice and support and possible linkages with CAB was raised as a further example e.g. handover of complex cases could occur earlier to avoid duplication.
- The risks and issues need to be clear.

- Concern was raised that with the pressure on some council services additional requirements would fall on Building Services. For example, graffiti removal that had previously been dealt with by rangers.

2.3 Trading and income generation

- Green streets – there is significant evidence to show an improved environment leads to improved investment into districts.
- There was confirmation of the significant challenges to core business. Within this context, a request was made to explore and bring back options for income generation. The amount of income potentially generated compared to the turnover required was discussed and further information requested. It was felt that a review of any income generation expectations should be reflected in any proposals being considered.
- A suggestion was made that the business plan could look to factor in what communities can generate from other sources to broaden their offer.

3b. Tenants and Residents representative including Communities Who Can and KNH Tenants & Residents Committees

i) Communities Who Can response to a potential merger of KNH and Building Services

Housing Futures - which includes a proposal to bring together the roles of housing management and maintenance into one organization - has been brought to the Board's attention in various different forums.

There has been an opportunity for discussion:

- In the Board meeting with Helen Geldart, who took us through a presentation
- In a meeting with Delegates, again with Helen who took us through a presentation and answered representatives' questions
- In Board meetings with Simon Rogers
- with Building Services in Quality Homes working group
- in an informal setting with Board members and other Delegates who came together to discuss the information they had received so far

Communities Who Can, at their Board meeting on 9/12/15 said they welcomed the opportunity to be involved in discussions.

As a Board they voted **unanimously** in support of a potential merger but wanted an undertaking that tenants would be involved in future discussions.

They felt that it was a natural partnership and it made sense for two parts of the council to join up. Some Board members felt it might give greater clarity as

they were aware that tenants were confused by the different services of the Council, KNH, Building Services and Kirklees Direct. They also felt it was an opportunity for streamlined working with one organization dealing with both the management and maintenance of homes.

The following questions and comments have been forwarded to Communities Who Can, either for the Delegates meeting, or for our feedback report.

From the Delegates meeting:

- Could a merged organization generate income for the Council?
- Should the two parts of a merged organization retain their identity for legal reasons, ie if one part gets into difficulties it wouldn't drag both parts down
- Could each tenant be consulted on this change, as they have been in the past regarding proposals for a change to an ALMO?
- Would a merged organization be allowed to make profits?
- What impact, if any, would a merger have on tenants and on Communities Who Can?
- Tenant scrutiny should be built into the merger process to ensure accountability

*From individual comments sent from Delegates/TRA members or community voices
(these views are not necessarily the views of Communities Who Can)*

- "There seems to be no information about the financial implications. No projections about possible benefits have been put forward as yet. Other possible business models have not been explained fully. Without a fully explored explanation and projections, I think an informed opinion cannot be made at this time. At this point in time, the merger does not seem to be viable. There is a danger that the Housing Revenue Account could be put under serious pressure if the merger were to go ahead. Also there is no clear plan or strategy concerning the maintenance of council properties such as schools etc. I am not in favour of a merger without further information"

"Boothroyd Green TRA want to go on record as showing our support and encouragement for the proposed merger as it must allow for a closer working between

the two, and could result in a saving due to the reduction of middle management posts."

"My question is: Are they going to be competitive. For example, cleaning one length of spout on a block of four flats costs a Leaseholder £28, who has to pay one quarter of the cost when a private firm advertises £19 for the same job.

Also Building Services are supposed to give you 72 hours written notice before any work starts. This does not happen.

Once the work is completed, they will carry out an inspection and you can ask the surveyor if the work that has been done, is to your satisfaction, before you pay. This also does not happen."

"Merger of KNH and Building Services - a good idea, as long as it is done properly"

"It would be cheaper to put repairs out to tender and employ a private firm. We are concerned that Building Services is expensive. We are also worried whether repairs are planned as economically as possible, to reduce travel time and costs.

Also, does anyone today sign a contract for 30 years?

Housing tenants should be balloted on a proposed merger."

From an informal meeting of Board members and Delegates on 14/12/15:

- What are the financial implications of a merger? What are the costs to merge, what will be the long-term savings?
- Tenants should be allowed to scrutinize the process, and scrutinize the merged company to ensure accountability.
- Could we know the structure of the new organization, as soon as possible?
- How will it work with two companies on two different pay structures - one which has adopted single status, one which hasn't
- Will the Kirklees Enhanced Standard for Decent Homes be maintained?
- Thirty years is a long contract. Couldn't it be 10 years initially, to see how it works in practice? What sort of break clauses will be inserted?
- If there are any working groups/steering groups looking at the merger, could we have a place for a tenant representative

In conclusion, our Delegates have raised many issues which we realise cannot be answered at this point.

Communities Who Can supports the opportunity to ensure the continued delivery of a quality housing and repairs service to tenants and is looking forward to seeing how it can play its part in making a difference for the people of Kirklees.

17/12/15



ii) KNH TRC Minutes

**a) Huddersfield JOINT North and South Tenant and Resident Committees
8th December 2015 - Huddersfield Town Hall
Extract from the minutes 'Futures Project' - Questions and comments**

CW said that there is no reference to the importance of tenants on the "What" page. AW apologised that the word tenant was missing however his view is that tenants are integral to the whole process.

CE said that he feels that it is too early in the process to give views. He said he is very sceptical at the moment based on a local college he worked at where a merger has meant cutting tiers of management.

AW responded that the benefits should be for tenants. It is about creating an organisation which assists tenants in the best and most efficient way possible.

KC asked whether there would be a fuller picture provided when there is more information for tenants to be able to give a fuller response about.

AW responded that the plan is being added to all the time. He sees that tenants should be engaged throughout the process.

AD asked what would happen if KNH did not get the contract renewed in 2017.

AW responded that this is why Cabinet is considering this option currently so there is a decision made and way forward before the current contract comes to an end.

AD further said that she is worried about the great cost of completing the merger.

SJ asked whether Pros and Cons are being considered. He also asked whether the option of KNH being taken back into the Council is being considered.

AW responded that the latter had been the considerations.

Cllr Andrew Cooper spoke about the proposal from his point of view. For example, gas safety checks undertaken by BS could bring income into the Council and given the scope for bringing in money it was not showing as sufficient. He went on to ask whether there is a hunger to develop the business and take advantage of the income which could be brought in.

AW responded that the first priority is to bring the rent in and core business, but it was about creating an organisation that provided opportunities to develop in the future.

Cllr Andrew Cooper responded to a question by CW saying that the income from external works should cover costs for the service.

CW further asked about the "what" slide. He said that if needed scrutiny could be used to ensure that the project is delivering what it said it would.

AW confirmed his overall support of scrutiny and tenant involvement

SJ said that CWC would be looking at the report before it goes back to Cabinet. He said that all could put final comments into CWC and they would be included in the response which goes to Cabinet.

AW said that every attempt to be open is being made.

CE asked whether there are any financial projections at all which could be shared so that tenants could consider them.

AW responded that he is unsure whether there are any figures that could be shared at this stage which would help to inform decisions making currently.

The Chair asked whether this item would be brought back to the TRC.

AW responded that SJ had clarified that all did have the possibility of responding via CWC.

**b) North Kirklees Tenant & Resident Committee
1st December 2015 - The Options Centre, Function Room, Dewsbury
Extract from the minutes 'Futures Project' - Questions and comments**

TS asked if the profit made by BS goes to KNH or the Council. AW confirmed that Housing goes into the HRA.

KG – it makes sense that the merger goes ahead. When first living in Kirklees he thought that BS worked for KNH anyway.

TS and JN asked whether BS would still do other work, such as schools and other similar organisations. The response is that yes they will. The Council would then be paying KNH for this work done for them.

Further concerns about potential delays in the work program were expressed. AW responded that at as one organisation it will be easier to be clearer about timescales and communicate them. It is hoped that the public won't notice the difference.

MC asked if there will be more Chiefs than Indians. AW said that EC has made it clear that the money is not there for the level which is being spent now and therefore changes will have to be made. Clearly at this stage he cannot be certain what future structures would look like; this would be part of the considerations.

PS said that in the past the services were together and split for the purpose of bidding processes. AW said that this was the issue at the time however the legality of the proposal has been checked out and it is OK to go ahead with the plans. KG explained that the time PS mentioned was before ALMO's were developed.

JC asked whether repairs are going to run smoothly. AW said that his job is about performance and one of the questions that he will continually ask is "what is your performance level" and "how will tenants benefit"? JC was concerned that BS workers begin to act as private contractors do who appear to work through all weathers and circumstances and she would like to see BS working in the same way.

JH said that BS workers are given timescales for completing jobs and often they are over exaggerated, e.g. 4 hours given for a 10 minute task. AW said he welcomes this kind of feedback and asks that you continue to give it.

SL said that gates have been replaced in order to assist the grass cutting however grass cutting will be reduced. AW said that the widening of gates is required to get equipment through.

AW asked whether generally attendees thought it was a good idea to go ahead with the merger. All responded yes it was.

3c. Tenants and residents and schools and the wider public via an online questionnaire

A form has been made openly available via the web sites of Kirklees Council, KNH, KBS and Communities Who Can. It has also been made available via social media and all schools were emailed in order to bring it to their attention.

The feedback received has been focussed on expected service delivery to schools e.g. will response times extend and confirmation that a new organisation has the opportunity to provide cost effective services and share good practice.

3d. Overview and Scrutiny Management Committee (OSMC)

The OSMC is satisfied with the process that has been undertaken and that all stakeholders have been given the opportunity to contribute.

The OSMC recognise the benefits that a new organisation could bring to tenants. In addition, Members felt a new organisation would provide an opportunity to provide greater efficiencies and benefits.

The OSMC note there will be work to do if the decision to merge is taken and they would want to have an ongoing involvement.

3e. KNH Board Letter and Attachment

KIRKLEES NEIGHBOURHOOD HOUSING LTD

Dave Harris
Chair of the Board

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HD1 6RZ
Tel: 01484 221000

Ms Kim Brear,
Asst Director Streetscene & Housing
Kirklees Council
Civic Centre 3
Huddersfield
HD1 2TG

Date: 24th December 2015
Our Ref: AS 518

When calling please ask for: Andy Selman

Dear Kim

Thank you for formally consulting with the KNH Board about the further exploration of a merger with Building Services. As you know we have been discussing the long term future of KNH with you and our Council colleagues for some time and we see this

proposal as one logical outcome of those discussions. This letter and attachment are our formal response to the consultation as agreed at the KNH Board meeting on the 23rd December 2015. Please will you include this letter and the attached note in their entirety as an appendix to the Cabinet Report as we are happy that they are in the public domain. Please feel free to extract highlights from the attachment or this covering letter for the body of the main report as you see fit.

Can I first say that the Board of KNH are proud of being a Council owned housing company working in close partnership with the Council on shared strategic objectives based on common values. We passionately believe in Council housing as a social asset of great value to our communities and will do all we can both now and in the future to secure that asset for the benefit of future generations. I know that I can speak on behalf of our new Chief Executive, Liz Cook, who takes up her post on the 25th January 2016, that she shares exactly the same values, enthusiasm and focus as we do on how the future could unfold. She brings different experiences and new energy and is greatly looking forward to help make these changes happen.

This is a turning point for KNH and we are aware of the scale of the changes it will involve for us as well as Building Services. We have always been very clear that our remit goes beyond the bricks and mortar of the houses as our wider range of services and interventions demonstrate. This is well illustrated in our Annual Report that went to Council in October. Support to tenants, especially the vulnerable, and assisting communities come together to do more for themselves is a key to success. Seeking new ways to fill some of the emerging gaps in support to vulnerable people and communities will be a feature in developing the merged and integrated service with our Building Services colleagues. We remain tenant focused and constantly strive to ensure that tenant voices are heard and inform our decision making. We have been clear for some time that the management and the repair and maintenance of our Council houses should be one managed business providing quality and efficient integrated services to tenants and their communities. We also believe that a merger will open up future opportunities for new forms of partnership working to better meet our common strategic and service objectives in difficult times. We therefore support the proposed merger as a key building block towards new ways of working in the future. We work closely with Building Services now but this is an opportunity to take the partnership to new levels in a common venture. We know that Building Services is a sound organisation, well led, with talented, hardworking and passionate people who want to do a good job for tenants and we look forward to building a future together with them and making use of all their talents alongside ours. We also believe that in a merged company Building Services colleagues will have an important role in helping shape the future direction of the company and an environment where their voices can be heard and acted upon.

We are pleased that the Council has shown such confidence in KNH to consider such a merger. Two already well performing organisations have the opportunity to be even better by being closer at a time of unprecedented cuts to public services when we need to do all we can to ameliorate the inevitable hardship this will cause to many citizens in Kirklees. Together with a proposed new long term contract this demonstrates the confidence of the Council has in KNH as a partner that constantly delivers on behalf of the Kirklees family. This is consistent with other long-term ALMO contracts of 20 to 30 years where the relationship between the Council and its ALMO is positive and mature, as is the case here in Kirklees. Following the comments made at the Cabinet meeting in September by Cllr Cathy Scott the Board will be seeking a minimum 20 year contract with the requisite break clauses to underpin the new arrangements and to give a clear signal to staff that this is indeed a long term secure relationship based on trust and common purpose.

KNH is a wholly owned Council Company and the risks of the proposed changes must be seen in this context. KNH has performed well for 15 years. We are absolutely focussed on positive outcomes for tenants and the communities we serve. If at any point in the future we cease to be so, the Council can simply close down the company. But it won't come to this. We are determined to continue to provide excellent services to tenants and our other customers. We are also committed to providing an excellent working environment for our existing and new staff. As a top 100 not for profit company to work for, with a gold IIP accreditation, we will remain absolutely committed to staff involvement and development and recognise the very positive role that trade unions play in this relationship.

We are ready for the challenge of these changes. We recognise the need to cut expenditure because of the decrease in rental income to the Housing Revenue Account as a result of the Government's rent reduction policy announced in July. The loss of £24M is a considerable amount. We want to work with you to find the best way to implement the required cuts and to mitigate their effect on services and jobs.

Most other ALMOs and housing associations have their own DLOs and in this regard we are one of the last housing organisations to adopt this model. It has worked well elsewhere. There are many others to learn from and we believe the process of change does not need to be complicated. The decision making in getting the merger operational must be **measured, sequential and proportionate**. The most straightforward way of achieving the new company is to TUPE Council staff into KNH. This will be less expensive and complicated than creating a new company and will remove the need to formally consult with all tenants about a new landlord and to change the business documentation and formal presentation to Companies House. We have neither the time, the capacity nor the money to waste doing things that we do not need to do now. In this regard, we also do not see the need for a major governance review at this stage and believe the existing company structure, Memorandum and Articles, and administration allows for us to legally provide the services currently delivered by Building Services. The priority is to get the merger done as quickly and simply as possible and make it work, as the day to day services to tenants must continue and current high performance needs to be maintained. None of us need distractions from this main task. Naturally as things progress we will jointly work with yourselves on exploring future possibilities for efficiencies, service redesign, new business opportunities and re-investment and in due time new or additional structures and governance may be needed to implement them. We then make changes for specific outcomes. For now we will not support change for change sake.

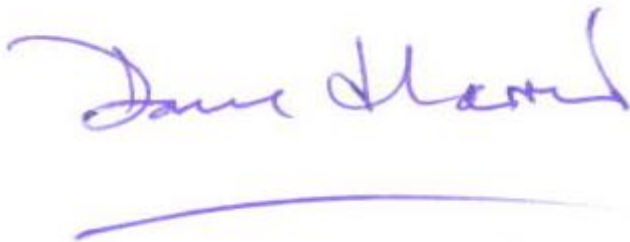
However, we recognise that KNH with Building Services and possibly other Council staff on board will be different to what we have now and we are keen to grow the best of both organisations into a new company culture. Not least we see the pride demonstrated on a daily basis with the quality of work produced by Building Services staff in homes across Kirklees. We do not underestimate the challenge this will be for KNH. This proposed merger will be a catalyst for a new relationship with the Council and that will be a challenge for the Council as well. KNH has grown and matured from an offspring of the Council family to a fully-fledged adult family member and the nature of our future partnership and strategic contribution has to change and hopefully be a powerful force in helping deliver Council objectives for our communities at a time of reducing budgets in the context of the New Council.

Our senior officers have been supporting their colleagues in the Council to identify savings in the HRA for this and next year. We need to continue to find further savings now, but we hope this initial work gives the project a financial profile to enable you to fulfil our first request in the first principle set out in the attachment. Here we set out our formal response to your consultation in the form of six requests we would ask you to consider that we

believe make for an uncomplicated and customer focussed approach to implementing a merger, if the decision of the Council is indeed to proceed with this course of action. We want this to work and work well. We need to be clear at the outset the basis upon which we are going to proceed to give us the best chance of creating an integrated service to our tenants. We see the merger as the key building block for the future of housing services in Kirklees. If it does not happen or is not implemented successfully all the longer term benefits we are seeking in terms of future opportunities to secure and grow the business will come to naught. The Board will put all its energy, passion and experience into this and we know our staff will play a full and productive role in making this project happen together with our Building Services colleagues.

I hope you see this letter and the accompanying note as helpful and constructive. KNH was set up by the Council to deliver the Council's priorities for the management of its housing stock. We have done that very successfully. It is within this context that the Board as custodians of an important part of Kirklees' public assets present our proposals. In these difficult times a mature working relationship between the Council and KNH will underpin all that we do and how we do it.

Yours sincerely



Dave Harris
KNH Board Chair

cc. Cllr Cathy Scott, Cabinet Portfolio Holder for Housing

KIRKLEES NEIGHBOURHOOD HOUSING

Formal response of the KNH Board to the consultation put to the Board at its meeting of 25 November 2015 by Kirklees Council officers.

Thank you for consulting with the KNH Board about the proposed merger with Building Services and KNH. This response is in the form of six principles designed to establish a straightforward way of managing a combined housing management and repairs service for council tenants in Kirklees. We believe that we need clarity on these now as we are convinced that to ensure this proposal is workable these six principles are very important and give us the best possible chance to create a new relationship with the Council that will see us into a challenging future with the best chance of success. We recognise that there will be a great deal of detailed and technical discussions to take place after Cabinet has made their decision. Issues will be worked through collaboratively and solutions undoubtedly found. Let us get the building blocks secure now by incorporating these six principles into the design.

1. A 'breathing space' for the fee through the merger process to enable us to manage the required expenditure cuts in a planned way that does not put the merger process itself at risk. This includes realignment of support services and SLAs (with the exception of our

second point below). Keeping largely to the status quo on both the fee and SLAs means that changes can be thought through in a measured way as the future unfolds over the next 18 months. This is to our mutual benefit. We recognise the Council needs to review the scope and delivery of its support services because of all the other changes facing the Council, and we want to allow space for this to happen before we review the best way to buy-in support services for KNH in the future. Our long term intention would be to continue as now, to buy-in support services from the Council (e.g. Transport, Legal and IT). It would be our intention for the company to continue to use the Councils SAP system, HD one and Payroll. We should clarify that this doesn't negate the requirement for KNH and the Council to work closely together to explore potential future reductions in SLA expenditure even before the merger takes place.

2. KNH has its own finance, HR and business support teams. This enables us to deliver our business strategy, be responsive, and support and develop our culture. The Board is very clear that we will retain these functions in the merged company and the Council may want to consider putting the staff that currently provide these services for Building Services on the TUPE list. We consider it important to have financial contract management in one place under the Board's control. We have staff experienced in similar mergers who have squeezed out efficiencies and savings from the operations by improved procurement, ordering and system changes.

3. We recognise that we need to have all staff on the same terms and conditions. We would honour TUPE in that no-one will be on worse terms and conditions than they are now and future changes will be by negotiation with the trades unions. We will however work towards harmonisation over time as it makes sense to do so as part of any service redesign and developing new business opportunities. We fully intend to treat all staff fairly as that is how we operate now and will continue to recognise national pay awards and the principle of collective bargaining. KNH's T&C's are very similar to the Councils and have been the subject of a recent collective agreement with the Trades Unions. Both organisations have a particular set of jobs and skill sets with limited overlap. We will deal with any issues as they arise through consultation with the Trades Unions. We will naturally continue to honour existing pension arrangements and our existing staff are members of the West Yorkshire Pension Fund. We did successfully TUPE Council staff when KNH was set up in 2002 and have an honourable track record of treating staff and their representatives with respect. That will not change.

4. We are very heartened by the words of senior officers and Elected Members in the Council, that they see KNH as part of the Council's family and want the future relationship to be mature and free of a complex client / contractor performance framework. To this end we will continue to produce a five year business plan which is revised annually. The plan sets out how KNH will deliver the Council's strategic aims. We would like to have this plan approved by the Cabinet. We will continue to produce an annual performance report and will present this to Cabinet and full Council. We will make all our internal financial and performance information available to Council officers to scrutinise in detail in real time to remove the need for any additional performance framework within the contract. This will keep costs down. The role of the Board is important here. We are legally responsible for the Company and are focused and skilled to undertake this as we move into a new era. Within an agreed framework and strategic objectives we believe it is in the interests of efficiency, flexibility and speed of response for decisions to implement agreed policies to be delegated to the Board. We are committed to fully engaging with elected members in the wards affected, on the detail and implementation of investment decisions, as we seek to do on management matters now. Accountability through partnership, without the need for bureaucracy is the guiding principle for us here. It should also save time and money by reducing unnecessary work for all of us. Time, money and energy best spent on managing

the reductions in the HRA and developing other areas of mutual interest within the context of the New Council.

5. We recognise the severity of the cuts required to HRA expenditure, because of reductions in rental income with the four year 1% rent reduction policy of the Government. The Council will need to reassess its development programme and use of reserves and headroom in the HRA to manage this. In order to manage the cuts in a planned way, the Board requests that the income starting point for the merged company would be **the current expenditure for responsive, planned and capital works plus the current fee paid to KNH**. From this starting point KNH will make the required reductions in the budget following decisions of the Council's strategic HRA managers and Cabinet for both the size of expenditure and strategic priorities to be delivered (property, types of work, geographical location). Unless the Board has the flexibility to look at the overall budget and make decisions accordingly then it is difficult to see what will be different from now. We all want more flexibility and speed of action and we all want redesign of integrated services for tenants and communities given the challenges ahead. A merged company is a mechanism for doing it but we have to have the freedom to get on with it. This is a test for the new relationship with the Council which has to be on the basis of trust and delegation within an agreed strategic framework. We recognise the HRA is an important strategic tool for the Council and its overall direction and control must be clearly determined by the Council. Notwithstanding the HRA fee we would expect that the current Building Services portfolio of work is continued to be commissioned for public works and schools and delivered through KNH. We recognise that this will fluctuate as the public realm reduces and more schools take on academy status and may select new support contracts. The opportunity to use the expertise of Building Services in the future development of this capital works area and development of new business suggests that KNH could over time provide an 'intelligent client' function for existing capital expenditure making the links to the Council's priorities for the local economy, jobs, training and the support of local businesses through the procurement process. We believe this is a fruitful area for early discussion.

6. Ownership of the HRA must be clearly demonstrated as sitting in the Council. We suggest this could be done with a five year planning overview and then an annual detailed plan which would provide us with parameters to work within. This would provide us with direction on for example the type of investment or geographical areas for investment that the Council wants us to focus on to integrate the Council's overall regeneration approach. Depending on interpretation, we believe Teckal rules would allow us to trade up to 20% of the overall value of works commissioned by the Council and this could facilitate the political desire to see the company expand its portfolio. This envelope would potentially be over £50M if KNH income was on the basis set out in 5 above and 20% would give enough flexibility for the immediate future. The Council will of course wish to form its own view on the application of Teckal and other procurement regulation on how KNH operates. The company would want to support the local economy through trading, but again it may be that Teckal allows for the majority of commissioned works to flow through the company. We may need to address the company structure and governance processes in the future should the scope of works change. But we don't see the need to do this immediately. The merger is the first part of the journey and we may collectively want to change the way KNH operates as future challenges arise, but at the moment we don't know what all these challenges, or indeed opportunities, are. We should therefore not get distracted now from the task in hand. As we have already stated, a successful merger is a secure building block for the future. Once in place we know we can build on these foundations with confidence. We look forward to making this happen. The Board is unanimous in its commitment to do precisely that and looks forward to Cabinet making a

favourable decision so we can put our energies into moving to the implementation phase of the project.

Dave Harris
Chair
Kirklees Neighbourhood Housing
23rd December 2015.

3f. Trade Union Involvement – GMB/Unite/Unison

The trade unions have been consulted on their views on the proposed merger as set out in this report. Officers have been clear that if the decision to proceed with the merger is taken, then subsequent detailed consultations will take place on the impact, including TUPE requirements.

Joint meetings and formal consultations have been taking place with all three trade unions (Unite, Unison and GMB) since mid-November 2015. In total, 4 meetings have been held between representatives from all three trade unions, the council and KNH officers. Issues discussed include pensions impact on employees and both organisations, the work that has been carried out by Building Services that is not repairs and maintenance of council housing. Officers have endeavoured to answer and explain the benefits and otherwise of the proposed merger to assist the trade unions to comment.

In a meeting on Friday, 29 January 2016, the trade unions advised that they would provide their comments in a letter by Wednesday, 3 February 2016. This will be circulated to Members at the Cabinet meeting.

Unite the Union - Response

Union Convenor- **Lyall Singleton**
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North East, Yorkshire & Humberside

Future housing- Unites response to the possible merger of KNH & building services.

Unite the Union feels that if the merger is to be considered, the best way of continuing to provide a first class service for tenants of Kirklees Council whilst remaining sustainable with regard to value for money, then a number commitments, negotiations and questions will need to be addressed by all affected parties and or their representatives prior to its implementation.

For the merger to take place the Unite believe that although there is already a governance structure in place for KNH as an arm's length organisation, for the merger to have every opportunity to succeed it will need to have a new governance set up that is balanced equally for

all parties involved, this will allow for strength's in all areas to grow stronger and replace any weaknesses with further skills and knowledge gained from the merging of two successful services. Unite believe that this type of unification will naturally generate considerable cost savings with regard to tacit knowledge and more efficient working practices.

Due to the current climate we are in Unite acknowledge that Building Services has already carried out a review at which savings and efficiencies have already been made, with this in mind Unite recommend KNH should consider carrying out a similar review before any negotiations take place on where all staff (both Building Services and KNH) will be seated within the new structure. This Unite believe will also help to make savings going forward within the new company.

Unite feel that for ultimate parity within the Council and the new Company, the Council's local terms and conditions and pay grade (single status NJC scheme) should apply to all staff within the new Company and the Council. This will allow both Unions and management across the Council and within the new Company to have a clear and transparent understanding of what is agreed by all affected parties which will in turn reduce consultation/negotiation times and once again more cost saving efficiencies.

Unites recognition and negotiating rights need to remain across the Council and the new Company alike, this alongside the duplication of terms and conditions and pay grades will prevent any unnecessary delay in negotiations and ultimately a more cost effective and efficient way of working for both management and trade Unions.

At present Building Services receives 80% of its work generated from the HRA and 20% from PRP (presently have to tender for). Unite believes that significant savings can be made by directing all works through the new Company this would allow the DLO section of the new Company to schedule work better which would allow more work to be carried out ultimately generating more income to be reinvested back into maintaining council houses. If work commitments, deadlines and speciality skills prevent work from being carried in house then the new Company would be able to use their expertise to manage/tender outside contractors to carry out the work which would mean a more stringent control of quality of work and value for money and also more efficient working practices by streamlining the work through one channel. This better working will give long term projections of upcoming works allowing more stability within the Company and ultimately generating a higher income.

Unite expect that the Council and new Company will both commit to remaining within the WYPF with no changes to the arrangements other than what is changed across the Council as a whole this also includes that no new employees would be refused entry into the scheme at any point of the Company's existence.

Unite also expect the Council to keep ownership of its housing stock and control of the HRA. The new Company should be accountable to the Council; targets should be set throughout the length contract to ensure the new Company is achieving its core principles i.e. value for money, customer satisfaction, and efficiency savings. Should the Council determine that the new Company will cease trading then all staff will be brought back into the Council.

If the decision from the Cabinet is to merge KNH and Building Services into one new Company then all of the comments made above need to be implemented to give all parties involved a feeling of fairness, equality and equal responsibility in the progression and success of the new Company going forward.

Lyall Singleton
Convenor
Unite the Union

3g. Kirklees Council and KNH officers

- i) Over the last 12 months, staff in KNH and KBS have been informed and engaged of the overall approach, consideration of options and the process to date. Staff will continue to be involved if the decision to merge is taken.
- ii) Relevant officers have been consulted on the implications of the proposal to merge KBS and KNH. Comments and views have been incorporated in the main body of the report.
- iii) Officers in Physical Resources and Procurement (PRP) have been consulted on the implications of the proposal to merge KBS with KNH from a corporate buildings and schools asset maintenance point of view.

In summary in relation to the building contracts and building maintenance and servicing works carried out by KBS on behalf of the Council the following would be important considerations:

- Quality of work
- The sharing of knowledge and condition data held about the buildings.
- Local employment
- Works to complimentary policies and procedures e.g. health and safety
- Saves the resource and time associated with commissioning
- Provides a rapid response in emergencies
- Provides a site management role for their own in house works
- Accountability.

In terms of specifying the requirements of a future relationship the following would need to be included:

- Demonstration of value for money
- Clear commissioning and performance standards which ensure work is delivered to agreed cost, standard and time
- Agreement around the subcontracting of works
- A recognition that volumes of work may reduce as the Council's asset base reduces.
- Agreement on project management
- Agreed prioritisation of emergency works to ensure business continuity for the Council and schools
- Agreement to the sharing and maintaining of building data

Outline Implementation Plan (indicative)

| Area | Output | 2016 | | | | | | | | | | 2017 | | | | | |
|--|---|------|-----|-----|------|------|-----|------|-----|-----|-----|------|-----|-----|--|--|--|
| | | Mar | Apr | May | June | July | Aug | Sept | Oct | Nov | Dec | Jan | Feb | Mar | | | |
| Legal | Letter to Secretary of State | | | | | | | | | | | | | | | | |
| | Amendment of company Memorandum and Associated Articles for the new company to ensure it can undertake legally everything that is agreed. | | | | | | | | | | | | | | | | |
| | Main contract documentation reviewed | | | | | | | | | | | | | | | | |
| | New contract established including break / termination clauses, length and reviews | | | | | | | | | | | | | | | | |
| | Asset review - will any asset's such as vehicles / IT be transferred to the new organisation | | | | | | | | | | | | | | | | |
| | Heads of Terms / leases - inc length, repair & maintenance, break clauses, termination. | | | | | | | | | | | | | | | | |
| Contracts between Building Services and externals reviewed / updated where appropriate | | | | | | | | | | | | | | | | | |
| Governance | HRA strategic governance reviewed and confirmed – includes demarcation and monitoring and liaison arrangements | | | | | | | | | | | | | | | | |
| | Delivery plan reviewed and refreshed inc HRA financial management | | | | | | | | | | | | | | | | |
| | 30 year business plan reviewed and refreshed | | | | | | | | | | | | | | | | |
| | Performance management reviewed and refreshed including expectations of the 'other 20%' of Building Services work to partners such as Schools, KAL and PRP. | | | | | | | | | | | | | | | | |
| | New organisation joint business plan (KNH / Building Services) Structures | | | | | | | | | | | | | | | | |
| | New organisation governance established | | | | | | | | | | | | | | | | |
| | New organisation structure established | | | | | | | | | | | | | | | | |
| | Review data protection notification | | | | | | | | | | | | | | | | |
| HR | TUPE prep | | | | | | | | | | | | | | | | |
| | * TUPE implementation (Formal Consultation) | | | | | | | | | | | | | | | | |
| | ** Terms and Conditions (Measures) | | | | | | | | | | | | | | | | |
| | Liaise with WY Pensions | | | | | | | | | | | | | | | | |
| Performance systems reviewed and analysed | | | | | | | | | | | | | | | | | |
| Finance | Fee reviewed and mechanisms confirmed | | | | | | | | | | | | | | | | |
| | SLA's reviewed and refreshed where appropriate | | | | | | | | | | | | | | | | |
| | Building Services charging arrangements reviewed and refreshed | | | | | | | | | | | | | | | | |
| | Insurance changes as required | | | | | | | | | | | | | | | | |
| | Premises – confirm costs / charging | | | | | | | | | | | | | | | | |
| | IT – licenses, costs and systems access | | | | | | | | | | | | | | | | |
| Communications and engagement | Political | | | | | | | | | | | | | | | | |
| | * Workforce - all affected staff (inc those not transferring) | | | | | | | | | | | | | | | | |
| | TU's | | | | | | | | | | | | | | | | |
| | Tenants and residents | | | | | | | | | | | | | | | | |
| KNH board | | | | | | | | | | | | | | | | | |
| Risk | Corporate / partner / stakeholder impact | | | | | | | | | | | | | | | | |