

CARLISLE CITY COUNCIL

Report to:- **The Mayor and Members of The City Council**

Date of Meeting:- 29 April 2003

Agenda Item No:-

16(e)

Public

Policy

Delegated Yes

Accompanying Comments and Statements

Required

Included

Environmental Impact Statement:

No

No

Corporate Management Team Comments:

No

No

Financial Comments:

Yes

Yes

Legal Comments:

No

No

Personnel Comments:

No

No

Title:-

2001/02 FINAL ACCOUNTS - CLOSURE ISSUES

Report of:-

The Head of Finance

Report reference:-

FS2/03

Summary:-

The Executive considered the attached report at their meeting of 3rd April and has made the following recommendation to Council.

It should be noted that a reply from the ODPM has not yet been received, but is anticipated prior to the date of the Council meeting.

Recommendation:-

The Council is requested to agree;

- (iii) To an equal split of the overall net relevant liability of KPPL of £2.347m for 2001/02 with the County Council.
- (iv) That the preferred solution of the issue for the City Council is Option 2 as set out in the report.

Contact Officer: Angela Brown

Ext: 7299



PORTFOLIO AREA: FINANCE AND RESOURCES

Date of Meeting: 03 April 2003

Public

Key Decision: Yes

Recorded in Forward Plan: No

Inside Policy Framework

Title: 2001/02 FINAL ACCOUNTS – CLOSURE ISSUES

Report of: Head of Finance

Report reference: FS2/03

Summary:

As part of the audit of the City Council's Final Accounts for 2001/02, the District Auditor has raised an issue relating to the need for both Carlisle City and Cumbria County Councils to provide credit cover for the net relevant liabilities of Kingmoor Park Properties Ltd (KPPL), of £2.347m, of which a 'loan' from English Partnerships of £2.937m is a major component. The provision of credit cover, if it is not covered by borrowing consent, involves the setting aside of the Councils own revenue or capital resources to meet the liability.

Recommendations:

The Executive is requested to recommend to Council on 29th April;

- (i) The formal agreement to an equal split of the overall net relevant liability of KPPL of £2.347m for 2001/02 with the County Council.
- (ii) The preferred Option for the resolution of the issue for the City Council.

Contact Officer: Angela Brown

Ext: 7299

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

CITY OF CARLISLE

To: The Executive
03 April 2003

FS2/03

The Mayor and Members of the City Council
29 April 2003

2001/02 FINAL ACCOUNTS – CLOSURE ISSUES

1. BACKGROUND INFORMATION

- 1.1 As part of the audit of the City Council's Final Accounts for 2001/02, the District Auditor has raised an issue relating to the need for both Carlisle City and Cumbria County Councils to provide credit cover for the net relevant liabilities of Kingmoor Park Properties Ltd (KPPL), of £2.347m, of which a 'loan' from English Partnerships of £2.937m is a major component. The provision of credit cover, if it is not covered by borrowing consent, involves the setting aside of the Councils own revenue or capital resources to meet the liability.
- 1.2 KPPL is a company that was established to facilitate the development of the former RAF 14MU site in order to develop the site to protect and enhance job opportunities in Carlisle and North Cumbria. The company was wholly controlled by Carlisle City Council and Cumbria County Council for the accounting period in question, (credit cover requirements work a year in arrears in accordance with the Local Authorities (Companies) Order 1995), and hence the need for the Councils to provide the credit cover during this period. Provision was made at the outset to admit a private sector partner as soon as the initial development works and site remediation were completed, and this was achieved in August 2001, at which point Alard Properties were admitted as the controlling partner, with the City and County Councils each retaining a 5% holding.
- 1.3 Both the City and County Councils have taken the view that the assistance from (the former) English Partnerships constitutes a grant, not a loan, and therefore no credit cover was required to be set aside. This view is supported by a letter from the Northwest Development Agency, who have confirmed that the Funding Agreement took the form of a Capital Investment Agreement as opposed to a Loan Agreement.

- 1.4 Notwithstanding this, both the KPPL Auditors and the District Auditor have determined that the advance from English Partnerships constitutes a loan. There appears to be no further way forward in challenging this view, and the District Auditors have confirmed in a letter dated 18th March 2003, that the City Council's financial accounts for 2001/02 will be 'qualified' in respect of this aspect of the accounts if no cover is provided.
- 1.5 There are two realistic options for the resolution of this matter, and these are considered further below. For both options, it is accepted that the City Council would need to meet 50% of the total net relevant liability of £2.347m on an equal sharing basis with the County Council. The credit cover that is required to be provided by the City Council for 2001/02 is therefore £1.173m, and would require the Council to set aside this amount from revenue or capital resources as a provision to repay debt.
- 1.6 It should be noted that there will also be an impact on the 2002/03 final accounts as KPPL was in local authority ownership until 16th August 2001. However at this stage, it is not considered that there will be any requirement to provide additional credit cover over and above that required in 2001/02.

2. OPTION ONE – THE CITY COUNCIL DOES NOT PROVIDE CREDIT COVER IN 2001/02

- 2.1 The City Council could decide not to provide the credit cover from its own resources for the 2001/02 accounts, and the District Auditor will therefore issue a qualified opinion on the City Council's accounts for that year.
- 2.2 The former City Treasurer raised this issue with the Office of the Deputy Prime Minister (ODPM) in a letter dated 21st March 2003, and has requested the issue of a Supplementary Credit Approval (SCA) to provide the required credit cover. If this were successful, then the Council would not have to find the cover from its own resources. At this point in time we have had no firm indication from the ODPM as to whether the application will be successful. However, even if successful, it is unlikely to be obtained in respect of the 2001/02 financial year, and so the qualification of the Accounts would stand for that year. It is hoped that a final decision will be made by the ODPM prior to the Council needing to make a final decision on the matter.
- 2.3 This option avoids the Council setting aside £1.173m of its own resources to provide credit cover (if the application to the ODPM is successful).

2.4 However, the City's accounts would be qualified in 2001/02 and there is no certainty that the requested SCA will be granted by the ODPM. If the application to the ODPM is unsuccessful, this means that the Council would need to provide the cover from its own resources anyway to avoid a further qualification of the accounts in 2002/03.

3. OPTION TWO – THE CITY COUNCIL PROVIDES THE CREDIT COVER IN 2001/02.

3.1 The City Council could agree to set aside £1.173m of useable resources to provide credit cover in 2001/02 and the accounts would be unqualified.

3.2 Given the sum involved, officers, in discussion with the District Auditor, have been investigating ways to alleviate the burden on the Council's resources should the Council have to provide the credit cover. The suggested way of doing this is to take advantage of adjustments to the Council's Minimum Revenue Provision (MRP), the full details of which are set out in **Appendix A**. The cumulative impact of taking into account these adjustments is that the total amount that could be released to offset the credit cover required in 2001/02 over the three-year period from 2001/02 to 2003/04 is £1.25m, which is sufficient to meet the entire amount required of £1.173m. The phasing of the application and release of monies would be:

Financial Year	Credit Cover Required £000	Offset by MRP Funds Released £000	Net Impact on General Fund Balances £000
2001/02	1,173	665	508
2002/03		330	(330)
2003/04		178	(178)
Total	1,173	1,173	0

3.3 This option avoids the qualification of the 2001/02 accounts.

3.4 However, the Council would have to apply £1.173m of its own resources to provide the cover, and although the effect can be mitigated by the adjustments to the MRP, it still necessitates the application of resources that can then not be used for alternative purposes had the issue not arisen. It should also be noted that the setting aside of these monies cannot be reversed. This means that should the ODPM at a later date agree to provide us with specific cover, then it could not be

utilised and would in effect be worthless (unless it was issued as a general SCA - which is unlikely).

4. CONSULTATION

4.1 Consultation has taken place with the County Council, District Auditor, ODPM, KPMG, NWDA.

5. RECOMMENDATIONS

5.1 The Executive is requested to recommend to Council on 29th April;

- (i) The formal agreement to an equal split of the overall net relevant liability of KPPL of £2.347m for 2001/02 with the County Council.
- (ii) The preferred Option for the resolution of the issue for the City Council.

6. IMPLICATIONS

- Staffing/Resources – None
- Financial – As set out in the report
- Legal – The Head of Legal and Democratic Services has been consulted on the report and has no further comments to add.
- Corporate – The corporate implications are as set out in the report.
- Risk Management – The implications arising from each of the options are detailed in the report.
- Equality Issues – None
- Environmental – None
- Crime and Disorder –None

ANGELA BROWN
Head of Finance

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Financial Services
Carlisle City Council
27 March 2003
AB/CH/FS2-03

MRP adjustments Proposed in respect of Kingmoor Park Properties Ltd

The Minimum Revenue Provision (MRP) is the minimum amount that must be charged to an authority's revenue account each year and set aside as a provision to meet credit liabilities i.e. as a provision to repay debt.

Credit liabilities need to be covered by a credit approval (borrowing consent) if such is made available, or by setting aside amounts from revenue or capital resources if borrowing consent is not obtained. This is the situation that the Council currently finds itself in.

Following investigation and discussion with the District Auditor, it is recommended that the most beneficial way of providing the credit cover required of £1.173m, is to take advantage of adjustments which could be made to the Council's MRP as set out below.

The City Council would normally be required to make a General Fund contribution of £400,000 pa (equivalent to 4% of credit ceiling). However, in the last few years the Council has not made a General Fund contribution because of the effect of a 'commutation adjustment' that has enabled the Council to offset losses on the revenue account arising from the commutation of improvement grant debt in 1992.

The commutation adjustment is not due to turn positive for this authority until probably 2006/07, when the Council will be required to start making a MRP again. However, the Council has, as a matter of policy since 2000/01, been making a gradually increasing voluntary MRP contribution of £30,000 p.a. so as to mitigate the budgetary effect when the commutation adjustment turns positive. Whilst it is not possible to undo the effect of previous years' contributions, the present budget provides for £140,000 to be met in 2002/03 and £180,000 in 2003/04. By not making these contributions, £320,000 could be released to make good the credit cover that has to be made in respect of 2001/02 from the Council's revenue balances.

More importantly, the City Council has not previously taken advantage of the opportunity to credit to its General Fund Reserve amounts that have been credited to a separate Reserve (the Capital Financing Reserve) as part of the MRP calculation. These sums have been discussed with the Council's auditor and £665,000 could be transferred for this purpose relating to the period 1997/98 to 2001/02. A further £190,000 could be so released in 2002/03 and £75,000 in 2003/04. The total of these three sums is £930,000.

The total amount of resources that could be released over the period 2001/02 to 2003/04 to mitigate the effects of the credit cover that needs to be provided is £1,250,000 (i.e. £930,000 + £320,000) which will be sufficient to meet all of the credit cover required.

It is considered that there would be no adverse effect on the Council's future liabilities through the release of the voluntary MRP provisions. Under the Prudential Code for

Capital Finance in local authorities, the MRP is likely to be abolished, possibly from as early as April 2004. As yet no decision has been made on its replacement although it seems certain that authorities will have to make some future provision for debt repayment. Suffice it to say that under the present MRP rate of 4% of an authority's net outstanding debt, not making the voluntary MRP in 2002/03 and 2003/04 (totalling £320,000) would only increase the annual debt repayment budget by 4% of that sum or £12,800.

**EXCERPT FROM THE MINUTES OF
EXECUTIVE
HELD ON 3 APRIL 2003**

EX.078/03 FINAL ACCOUNTS 2001/02 - CLOSURE ISSUES (Key Decision)

(With the consent of the Chairman, and in accordance with Rule 15 of the Access to Information Procedure Rules, this item had been included on the Agenda as a key decision, although not in the Forward Plan)

Portfolio Finance and Resources

Subject Matter

To consider a report from the Head of Finance (FS.2/03) indicating that, as part of the audit of the City Council's Final Accounts for 2001/02, the District Auditor had raised an issue relating to the need for both Carlisle City and Cumbria County Councils to provide credit cover for the net relevant liabilities of Kingmoor Park Properties Ltd (KPPL), of £2.347m, of which a 'loan' from English Partnerships of £2.937m is a major component. The provision of credit cover, if it was not covered by borrowing consent, involved the setting aside of the Council's own revenue or capital resources to meet the liability.

KPPL is a company established to facilitate the development of the former RAF 14MU site in order to protect and enhance job opportunities in Carlisle and North Cumbria and was wholly controlled by Carlisle City Council and Cumbria County Council for the accounting period in question (credit cover requirements work a year in arrears in accordance with the Local Authorities (Companies) Order 1995). Provision was made at the outset to admit a private sector partner as soon as the initial development works and site remediation were completed, and this was achieved in August 2001, at which point Alard Properties were admitted as the controlling partner, with the City and County Councils each retaining a 5% holding.

Both the City and County Councils have taken the view that the assistance from (the former) English Partnerships constituted a grant, not a loan, and that no credit cover was, therefore, required to be set aside. This view was supported by a letter from the Northwest Development Agency, who have confirmed that the Funding Agreement took the form of a Capital Investment Agreement as opposed to a Loan Agreement.

Notwithstanding this, both the KPPL Auditors and the District Auditor have determined that the advance from English Partnerships constituted a loan. There appeared to be no further way to challenge this view, and the District Auditors have confirmed in a letter dated 18th March 2003, that the City Council's financial accounts for 2001/02 would be 'qualified' in respect of this aspect of the accounts if no cover was provided.

There were two realistic options for the resolution of this matter, both requiring the City Council to meet 50% of the total net relevant liability of £2.347m on an equal sharing basis with the County Council. The credit cover required to be provided by the City Council for 2001/02 was, therefore, £1.173m, and would require the Council to set aside this amount from revenue or capital resources as a provision to repay debt.

Option 1 - The City Council could decide not to provide the credit cover from its own resources for the 2001/02 accounts and the District Auditor would, therefore, issue a qualified opinion on the City Council's accounts for that year. An application has been made to the ODPM for the issue of a Supplementary Credit Approval to provide the required credit cover. Whilst no decision had yet been made by the ODPM, even if the application was successful, it was unlikely to cover the 2001/02 financial year, and so the qualification of the Accounts would stand for that year.

Option 2 - The City Council could agree to set aside £1.173m of useable resources to provide credit cover in 2001/02 and the accounts would be unqualified. The Head of Finance reported on the most efficient way of providing the credit cover.

The Head of Finance also pointed out that there would also be an impact on the 2002/03 final accounts as KPPL was in local authority ownership until 16th August 2001. However, at this stage, it was not considered that there would be any requirement to provide additional credit cover over and above that required in 2001/02.

Summary of options rejected

The suggested Option 1 to resolve the issue was rejected by the Executive.

DECISION

That the following recommendation of the Executive be referred to the City Council:-

1. The formal agreement to an equal split of the overall net relevant liability of KPPL of £2.347m for 2001/02 with Cumbria County Council;
2. Option 2 is the preferred option to resolve this issue.

Reasons for Decision

The recommendations are being forwarded to the City Council for decision.