STATUTORY INSTRUMENTS

1981 No. 1313

LONDON GOVERNMENT

The London Borough of Havering (Transfer of Housing Accommodation etc.) Order 1981

Made - - - -	10*th September* 1981
Laid before Parliament	*18th September* 1981
Coming into Operation	1*st October* 1981

Whereas the Council of the London Borough of Havering and the District Council of Brentwood have requested the Secretary of State for the Environment to provide by an order under section 23(3) of the London Government Act 1963(**a**) for the transfer of certain housing accommodation for the time being vested in the Council of the London Borough of Havering;

And whereas the said councils have agreed the terms of such transfer;

And whereas certain further matters appear to the Secretary of State necessary and proper for the purposes of or in consequence of that transfer;

Now therefore the Secretary of State for the Environment, in exercise of powers conferred by sections 23(3) and 84 of the London Government Act 1963 and now vested in him (**b**), and in exercise of all other powers enabling him in that behalf, hereby makes the following order:—

Title, commencement and interpretation

1. This order may be cited as the London Borough of Havering (Transfer of Housing Accommodation etc.) Order 1981, and shall come into operation on 1st October 1981.

2.—(1) In this order—

"the relevant date" means 1st October 1981;

"the Secretary of State" means the Secretary of State for the Environment;

"the transferee authority" means the District Council of Brentwood;

"the transferor authority" means the Council of the London Borough of Havering; and

"transferred property" means the land or housing accommodation described in Schedule 1 to this order and transferred by this order.

(**a**) 1963 c.33. (**b**) S.I. 1970/1681.

(2) Any reference in this order to a numbered article shall be construed as a reference to the article bearing that number in this order.

Transfer of property

3. On the relevant date all the property described in Schedule 1 to this order and (save as hereinafter provided) all liabilities attaching directly or indirectly to the transferor authority in respect of their ownership or occupation of any such property shall by virtue of this order be transferred to and vest in or attach to the transferee authority, and—

(*a*) all contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or having effect as if they had been given) by, or to, the transferor authority in respect of such property and liabilities shall be of full force and effect in favour of, or against, the transferee authority; and

(*b*) any action or proceeding or any cause of action or proceeding, pending or existing on the relevant date, by, or against, the transferor authority in respect of such property and liabilities shall not be prejudicially affected by reason of this order, and may be continued, prosecuted and enforced by, or against, the transferee authority.

4. Any property or liability transferred by article 3 to the transferee authority shall be held and discharged by them for and in respect of the District of Brentwood.

5. Any byelaws in force for the regulation of any property transferred by article 3 shall have effect as if they had been made by the transferee authority.

6. Any legal proceedings pending on the relevant date may be amended in such manner as may be necessary or proper in consequence of this order.

Consolidated loan funds

7. Where by virtue of this order any matter in respect of which, if this order had not been made, sums would have become due and owing to a consolidated loans fund or loans pool is transferred to an authority other than the authority by whom such fund or pool is maintained on or after the relevant date, such sums shall be paid by the first-mentioned authority to the authority by whom the fund is maintained.

General words implied in transfer

8. Section 62 of the Law of Property Act 1925(**a**) (which implies certain words in conveyances of land, subject to the terms of the conveyance and the provisions therein contained) shall have effect—

(*a*) in respect of any transferred property, and

(*b*) in respect of any property vested in the transferor authority which is affected by the said transfer,

as if the property described in (*a*) and (*b*) respectively had been the subject of a conveyance on sale on the relevant date.

(**a**) 1925 c.20.

Covenants affecting transferred property

9.—(1) The transferor authority shall notify the transferee authority of any land within the extent of an area of transferred property in respect of which the transferor authority have power under section 151 of the Housing Act 1957(**a**) to enforce any covenant against an owner for the time being of the land and such notification shall provide sufficient particulars of the said covenant.

(2) In respect of such land—

(*a*) the transferor authority shall consult with the transferee authority before exercising their power under the said section 151; and

(*b*) the transferee authority may require the transferor authority to exercise the said power in any case where such exercise is required in the interests of the area of transferred property within the extent of which the land is situated.

10. Any covenant (not being a covenant affected by article 9) which would have been enforceable by the transferor authority immediately before the relevant date in respect of land within the extent of or adjoining an area of transferred property, being land which was sold or exchanged by the transferor authority and, immediately before such sale or exchange, was held by them for the purposes of the Housing Act 1957 or of any Act re-enacted by that Act shall be of full force and effect in favour of and enforceable by the transferee authority.

Rent books

11.—(1) In the case of any transferred property being premises to which the Landlord and Tenant Act 1962(**b**) applies, notification by the transferee authority to the tenant of the transfer effected by this order shall be deemed to be a compliance by the said authority with the requirements of section 2(1)(*a*) of the said Act.

(2) Paragraph (1) shall cease to apply in respect of any such premises when the tranferee authority first provides a rent book or other similar document for use in respect of the said premises.

Transfer of outstanding debt

12.—(1) The transferee authority shall—

(*a*) from the relevant date assume liability for all repayments of principal, interest and management expenses relating to the loan debt outstanding at that date on transferred property (including the cost of the land) and due to the loans pool of the transferor authority; and

(*b*) discharge such liability by making payments to the transferor authority of such amounts and at such times each year as shall be agreed between the transferor authority and the transferee authority.

(2) If, as a consequence of the disposal by the transferee authority of any transferred property, the transferee authority are in receipt of a capital sum, that sum shall first be applied to offset the loan debt (if any) outstanding on that property.

(**a**) 1957 c.56. (**b**) 1962 c.50.

13. Where under this order or any adjustment made in consequence hereof, any liability or part of a liability charged indifferently on all the revenues of the transferor authority or on any particular revenues or fund of the transferor authority is transferred to the transferee authority, the liability or part of the liability, as the case may be, shall be charged indifferently on all the revenues of the transferee authority, and shall cease to be a charge on any revenues or fund of the transferor authority.

Housing grants and subsidies

14. Nothing in article 3 shall affect any grant or subsidy receivable by the transferor authority in respect of housing accommodation transferred by that article.

Terms of transfer

15. Schedule 2 to this order shall have effect in relation to payments between the transferor and transferee authorities in respect of the net cost of, and net income from, the transferred property.

Arbitration

16. Subject to any provision of this order, any dispute arising under this order or in consequence thereof shall be determined by an arbitrator appointed by agreement between the parties in dispute, or, in default of agreement, by the Secretary of State, and, subject as aforesaid, the provisions of the Arbitration Act 1950 (**a**) shall apply to any arbitration under this article.

SCHEDULE 1 Article 3

PROPERTY TRANSFERRED TO THE DISTRICT COUNCIL OF BRENTWOOD

That area of land approximately four hectares in extent situated at Hutton in the District of Brentwood and known as the Hutton Estate comprising:—

(*a*) the housing accommodation numbered—

(i) 1, 3, 5, 7, 8 and 10-12 (inclusive) Ardleigh Gardens,

(ii) 4, 8 and 10 Chelmer Drive,

(iii) 1, 4, 7, 11, 14-16 (inclusive), 18, 20 , 22-26 (evens), 27-33 (odds), 34, 37, 40, 42, 48, 66, 72 and 82 Fairview Avenue,

(iv) 128, 136 and 142-152 (evens) Hutton Drive,

(v) 2-12 (evens), and 18 Lambourne Drive,

(vi) 1 and 6 Willingdale Close;

(*b*) the motor car garages 1-28 (inclusive) Willingdale Close, and 1-16 (inclusive) Fairview Avenue, and the tricycle garage at the rear of 46 and 48 Fairview Avenue;

(*c*) the electricity sub-station site adjoining 16 Lambourne Drive; and

(*d*) all highways, pavements, walkways, garden areas and other land within the said estate not comprised in items (*a*) to (*c*) above.

(**a**) 1950 c.27.

Article 15 SCHEDULE 2

PAYMENTS IN RESPECT OF NET COST OF, AND NET INCOME FROM TRANSFERRED PROPERTY

1. Payments in respect of the net cost of, and net income from, the transferred property shall be made in accordance with the following provisions of this Schedule.

2.—(1) Where for the financial year 1981/82 there is a difference between the outgoings in respect of any transferred property and the rents receivable therefor, then if the outgoings exceed the rents receivable, the payments specified in subparagraph (2) shall be made by the transferor authority, and in the converse case by the transferee authority.

(2) The payments referred to in sub-paragraph (1) are the following sums:—

(*a*) for each of the periods from 1st October 1981 to 31st March 1982 and from 1st April to 30th September 1986, 50% of the difference; and

(*b*) for each financial year from 1982/83 to 1985/86 inclusive, the full amount of the difference.

(3) In this paragraph—

"the outgoings" means the sum of—

(*a*) the liabilities of the transferee authority under article 12(1); and

(*b*) the estimated amount of the costs of managing and maintaining the transferred property, as determined by the transferor authority on the assumption that such property had not been transferred by this order; and

"rents receivable" means all the estimated income from the transferred property as determined by the transferor authority on the assumption that such property had not been transferred by this order, but without taking into account any rate fund contributions.

3.—(1) Where a transferee authority disposes of or appropriates any transferred property, any payment falling to be made in respect of that property under paragraph 2 for any financial year commencing after the disposal or appropriation takes place shall be adjusted in accordance with the following provisions of this paragraph.

(2) For the purposes of this paragraph the transferor authority shall determine what payment would fall to be made under this Schedule of the property so disposed of or appropriated were the only transferred property (in this paragraph referred to as "the part payment").

(3) Where the part payment would fall to be made by the transferor authority, the property is referred to in this paragraph as being in deficit.

(4) Where the consideration for the disposal, or the value at which the appropriation is made, expressed in money, is sufficient to discharge the outstanding loan debt attributable to the property, and the property is in deficit, then—

(*a*) if the payment falls to be made by the transferor authority, it shall be reduced by the amount of the part payment; and

(*b*) if the payment falls to be made by the transferee authority, it shall be increased by the same amount.

(5) Where such consideration or value is insufficient to discharge the outstanding loan debt attributable to the property, the property is in deficit and the part payment exceeds the residual loan charges, then—

(*a*) if the payment falls to be made by the transferor authority, it shall be reduced by the excess of the part payment over the residual loan charges; and

(*b*) if the payment falls to be made by the transferee authority, it shall be increased by the same amount.

(6) In this paragraph "residual loan charges" means such part of the loan charges payable in respect of the property as the transferor authority shall determine, being the amount which would remain to be met after applying in respect of the property either any annual mortgage payments to be made to the transferee authority or any capital sum received by that authority.

4. The transferee authority shall furnish the transferor authority with sufficient details of any disposal or appropriation of any transferred property to enable the adjustments required by paragraph 3 to be made.

5. Payments under this Schedule shall be made in such instalments and at such times in each year as shall be agreed between the transferor and transferee authorities.

6. Not later than 30th September 1986, the transferor authority shall, in consultation with the transferee authority, review the arrangements set out in this Schedule for the purpose of considering the need for payments to be, or continue to be, made in respect of transferred property; and where it is agreed in consequence of the said review that payments should be made, having regard to the financial needs of the parties in respect of transferred property, then payments for such a period, and on such terms and conditions as may be agreed, shall be made by the transferor authority or, as the case may be, by the transferee authority.

Michael R. D. Heseltine,
10th September 1981. Secretary of State for the Environment.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order provides for an agreed transfer of housing land and accommodation from the London Borough of Havering to the District Council of Brentwood, in whose area the land and accommodation is situated. It includes the agreed terms on which the transfer is to take place and also certain consequential and supplemental provisions.

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