STATUTORY INSTRUMENTS

1984 No. 1390

LONDON GOVERNMENT

The London Borough of Waltham Forest (Transfer of Housing Accommodation etc.) Order 1984

Made - - - -	*29th August* 1984
Laid before Parliament	*7th September* 1984
Coming into Operation	*1st October* 1984

Whereas the Councils of the London borough of Waltham Forest and the district 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 Waltham Forest, being housing accommodation situated outside that borough and within the district of Brentwood;

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

Citation, commencement and interpretation

1. This order, which may be cited as the London Borough of Waltham Forest (Transfer of Housing Accommodation etc.) Order 1984, shall come into operation on 1st October 1984.

2.— (1) In this order—

"Brentwood" means the Council of the district of Brentwood;

"the relevant date" means 1st October 1984;

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

"the transfer" means the transfer effected by this order;

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

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

"Waltham Forest" means the Council of the London borough of Waltham Forest.

(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 Waltham Forest 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 Brentwood, 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, Waltham Forest in respect of such property and liabilities shall be of full force and effect in favour of, or against, Brentwood; and

(b) any action or proceeding or any cause of action or proceeding, pending or existing on the relevant date, by, or against, Waltham Forest 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, Brentwood.

General words implied in transfer

4. 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 terms therein contained) shall have effect—

(a) in respect of the transferred property, and

(b) in respect of any property vested in Waltham Forest which is affected by the transfer,

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

Covenants affecting transferred property

5.— (1) Waltham Forest shall notify Brentwood of any land within the extent of an area of transferred property in respect of which Waltham Forest have power under section 151 of the Housing Act 1957(**b**) to enforce any covenant against the owner for the time being of the land; and such notification shall provide sufficient particulars of the said covenant.

(**a**) 1925 c.20.
(**b**) 1957 c.56.

(2) In respect of such land—

(a) Waltham Forest shall consult Brentwood before exercising their power under the said section 151; and

(b) Brentwood may require Waltham Forest 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.

6. Any covenant not falling within article 5 (and not being a covenant having effect by virtue of section 104B(**a**) of the Housing Act 1957 or section 8 of the Housing Act 1980(**b**)) which would have been enforceable by Waltham Forest 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 Waltham Forest 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 Brentwood.

Byelaws

7. Any byelaws in force for the regulation of any transferred property shall have effect as if they had been made by Brentwood.

Legal proceedings

8. 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.

Rent books

9.— (1) Where the Landlord and Tenant Act 1962(**c**) applies to any premises comprised in the transferred property, notification by Brentwood to the tenant of the transfer shall be deemed to comply with the requirements of section 2(1)*(a)* of that Act.

(2) Sub-paragraph (1) shall cease to apply when Brentwood first provide a rent book or other similar document for use in respect of the said premises.

Transfer of outstanding debt

10.— (1) Brentwood 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 Waltham Forest; and

(b) discharge such liability by making payments to Waltham Forest on the 31st March in each year of such amounts as shall be agreed between the parties.

(**a**) as inserted by section 92 of the Housing Act 1980 (c.51).
(**b**) 1980 c.51; section 8 was amended by section 5 of the Housing & Building Control Act 1984 (c.29).
(**c**) 1962 c.50.

(2) Where under this order or any adjustment made in consequence thereof, any liability charged indifferently on all the revenues of Waltham Forest or on any particular revenues or fund of that authority is transferred to Brentwood, that liability shall be charged indifferently on all the revenues of Brentwood, and shall cease to be a charge on any revenues or fund of Waltham Forest.

11. 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 Brentwood, such sums shall be paid by Brentwood to the authority by whom the fund is maintained.

Revenue and subsidy payments in respect of transferred property

12. Schedule 2 to this order shall have effect in relation to payments between Waltham Forest and Brentwood in respect of:—

(a) the net cost of, and net income from, the transferred property; and

(b) losses of subsidy incurred by Waltham Forest in consequence of the transfer.

Arbitration

13. 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.

(a) 1950 c.27.

SCHEDULE 1 Article 3

All numbers set out in this Schedule are inclusive.

PROPERTY TRANSFERRED TO THE DISTRICT OF BRENTWOOD

That area of land approximately 3.45 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 and 5 Chelmer Drive;

(ii) 39, 41, 45, 49, 53—59(odds), 86 and 90 Fairview Avenue;

(iii) 1, 3, 5, 11—17(odds) and 21—27(odds) Lambourne Drive;

(iv) 1—5, 7—9, 11—15, 17, 20 and 21 Kelvedon Close;

(v) 154—160(evens) and 164—186(evens) Hutton Drive;

(vi) 1—9 and 11—13 Magdalen Gardens;

(vii) 2—6(evens) and 7—12 Mandeville Walk;

(b) the motor car garages numbered 1—18 Fairview Avenue and situate at the rear of houses 41—59 Fairview Avenue; and

(c) all parking spaces, highways, pavements, walkways, garden areas and other land within the said estate not falling within the preceding provisions of this Schedule.

SCHEDULE 2 Article 12

REVENUE AND SUBSIDY PAYMENTS IN RESPECT OF TRANSFERRED PROPERTY

1.— (1) Payments in respect of:—

(a) the net cost of, and net income from the transferred property; and

(b) losses of subsidy incurred by Waltham Forest in consequence of the transfer;

shall be made in accordance with the following provisions of this Schedule.

(2) This Schedule applies to the period from the relevant date to 30th September 1989 and to any further period to which paragraph 5 applies.

(3) In this Schedule "year" means financial year.

2.— (1) Where for the year 1984/85 there is a difference between the outgoings in respect of the transferred property and the rents receivable therefor, then if the outgoings exceed the rents receivable, a payment shall be made by Waltham Forest, and in the converse case by Brentwood.

(2) The payment falling to be made under this paragraph is:—

(a) for each of the periods from the relevant date to 31st March 1985 and from 1st April 1989 to 30th September 1989, half the difference; and

(b) for each year from 1985/86 to 1988/89 inclusive, the full amount of the difference.

(3) In this paragraph—

"outgoings" means the sum of:—

(a) the repayments referred to in article 10(1); and

(b) the estimated costs of managing and maintaining the transferred property,

as determined in each case by Waltham Forest on the assumption that such property had not been transferred by this order;

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

3.— (1) In relation to the years 1984/85 and 1985/86, Brentwood shall pay to Waltham Forest the following sums in respect of loss of subsidy incurred by Waltham Forest in consequence of the transfer:—

(a) for each of the periods from the relevant date to 31st March 1985 and from 1st April 1989 to 30th September 1989, half the loss of subsidy; and

(b) for each year from 1985/86 to 1988/89 inclusive, the full amount of such loss.

(2) The loss of subsidy referred to in this paragraph shall be calculated according to the sum of:—

(a) the reduction in the base amount of housing subsidy under section 98 of the Housing Act 1980 for 1984/85 and 1985/86, in accordance with paragraph 115 of, and Head 10 of Table D in Appendix A to, the Housing Subsidies and Accounting Manual 1981; and

(b) the net reduction in the housing costs differential under section 99 of the Housing Act 1980 in relation to management and maintenance for 1984/85 and 1985/86, in accordance with the general determinations made or to be made in that regard for those years by the Secretary of State:

Provided that no account shall be taken of any change in the local contribution differential under section 100 of the Housing Act 1980.

(3) If by reason of the withdrawal or amendment of the Manual or general determinations referred to in sub-paragraph (3) the loss of subsidy cannot be calculated as provided therein, such loss shall be determined by agreement between the parties or, in default of such agreement, by the Secretary of State.

4.— (1) Payments under paragraph 2 of this Schedule shall be made on 31st March in each year.

(2) Payments under paragraph 3 of this Schedule shall be made by quarterly payments in advance on 15th November, 15th February, 15th May and 15th August in each year.

5. Not later than 30th September 1989, Waltham Forest shall, in consultation with Brentwood, 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 by the parties in consequence of the said review that payments should be made, having regard to their respective financial needs, then payments shall be made (whether by Waltham Forest or by Brentwood) for such a period, and on such terms and conditions, as may be agreed or, in default of agreement, determined under article 13.

Ian Gow,
Minister for Housing and Construction,
Department of the Environment.

Signed by authority of
the Secretary of State

29th August 1984.

EXPLANATORY NOTE

(*This note is not part of the order.*)

This order provides for an agreed transfer of housing accommodation from the London borough council of Waltham Forest to the district council of Brentwood, in whose area the housing accommodation is situated. It includes the agreed terms on which the transfer is to take place and also certain consequential and supplementary provisions.