



Northern Ireland  
Assembly

Public Accounts Committee

# Department for Social Development – Advanced Land Purchases

Together with the Minutes of Proceedings of the Committee relating  
to the Report and the Minutes of Evidence

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September 2015

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00:01AM ON 21 OCTOBER 2015**

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## PUBLIC ACCOUNTS COMMITTEE MEMBERSHIP AND POWERS

**The Public Accounts Committee is a Standing Committee established in accordance with Standing Orders under Section 60(3) of the Northern Ireland Act 1998.** It is the statutory function of the Public Accounts Committee to consider the accounts, and reports on accounts laid before the Assembly.

The Public Accounts Committee is appointed **under Assembly Standing Order No. 56** of the Standing Orders for the Northern Ireland Assembly. It has the power to send for persons, papers and records and to report from time to time. Neither the Chairperson nor Deputy Chairperson of the Committee shall be a member of the same political party as the Minister of Finance and Personnel or of any junior minister appointed to the Department of Finance and Personnel.

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee since 23 May 2011 has been as follows:

Ms Michaela Boyle<sup>3</sup> (Chairperson)

Mr John Dallat<sup>5</sup> (Deputy Chairperson)

Mr Roy Beggs<sup>14</sup>

Mr Trevor Clarke<sup>8</sup>

Mr Phil Flanagan<sup>13</sup>

Mr Paul Girvan

Ms Claire Hanna<sup>16</sup>

Mr Ross Hussey

Mr Adrian McQuillan<sup>1</sup>

Mr Conor Murphy<sup>17</sup>

Mr Jim Wells<sup>15</sup>

<sup>1</sup> With effect from 24 October 2011 Mr Adrian McQuillan replaced Mr Paul Frew

<sup>2</sup> With effect from 23 January 2012 Mr Conor Murphy replaced Ms Jennifer McCann

<sup>3</sup> With effect from 02 July 2012 Ms Michaela Boyle replaced Mr Paul Maskey as Chairperson

<sup>4</sup> With effect from 02 July 2012 Mr Conor Murphy is no longer a Member and his replacement on this committee has not yet been announced

<sup>5</sup> With effect from 07 September 2012 Mr John Dallat replaced Mr Joe Byrne as Deputy Chairperson.

<sup>6</sup> With effect from 10 September 2012 Mr Sean Rogers was appointed as a Member

<sup>7</sup> With effect from 10 September 2012 Mr Daithi McKay was appointed as a Member

<sup>8</sup> With effect from 01 October 2012 Mr Trevor Clarke replaced Mr Alex Easton

<sup>9</sup> With effect from 11 February 2013 Mr Sammy Douglas replaced Mr Sydney Anderson

<sup>10</sup> With effect from 15 April 2013 Mr Chris Hazzard replaced Mr Mitchel McLaughlin

<sup>11</sup> With effect from 07 May 2013 Mr David McIlveen replaced Mr Sammy Douglas

<sup>12</sup> With effect from 16 September 2013 Mr Alex Easton replaced Mr David McIlveen

<sup>13</sup> With effect from 06 October 2014 Mr Phil Flanagan replaced Mr Chris Hazzard

<sup>14</sup> With effect from 06 October 2014 Mr Roy Beggs replaced Mr Michael Copeland

<sup>15</sup> With effect from 18 May 2015 Mr Jim Wells replaced Mr Alex Easton

<sup>16</sup> With effect from 7 September 2015 Ms Claire Hanna replaced Mr Sean Rodgers

<sup>17</sup> With effect from 14 September 2015 Mr Conor Murphy replaced Mr Daithi McKay

## List of Abbreviations Used in the Report

the Committee	Public Accounts Committee (PAC)
C&AG	Comptroller and Auditor General
DFP	Department of Finance and Personnel
DSD	Department for Social Development
NIHE	Northern Ireland Housing Executive
ALP	Advanced Land Purchase
PSNI	Police Service of Northern Ireland
HMRC	Her Majesty's Revenue and Customs
HAG	Housing Association Grant

# Executive Summary

1. The Comptroller and Auditor General (C&AG) has reported for a number of years on his significant concerns on matters relating to Housing Associations. The Committee noted that in the last few years there has been a general improvement in the results of the regulatory inspections carried out by the Department for Social Development (DSD) and this improvement has been driven, at least in part, by the Department.
2. Notwithstanding this overall improvement, the Committee was deeply concerned by the handling of issues that arose in two particular schemes. These two schemes received Advanced Land Purchase (ALP) grants totalling £8.9 million from the Department but no social housing was ever actually built in the schemes.
3. In Helm Housing Association there were major problems surrounding their governance and their ongoing developments which were reported by the Department and also by the C&AG in 2012. These issues have now been largely resolved within Helm but the Committee was extremely concerned about the 'flip sale' of property at Great George's street which allowed a third party to make a profit of £3.25 million by buying and selling it to Helm on the same day. The Committee views it as unacceptable that this has not been satisfactorily explained despite investigations having taken place.
4. The purchase of the land at Great George's Street was financed by an ALP grant in 2007 of £8.1 million which was intended to lead to a development of 130 social housing units - however none were ever built due to problems obtaining planning permission. An agreement for Helm to repay the grant to DSD was reached in 2014 although this will be by means of instalments up to 2017, some 10 years after the grant was paid over, and no interest is being charged. The Committee is hugely disappointed at how long it has taken to recover public funds and has made recommendations relating to improving due diligence before grants are paid and the charging of interest on recoveries of ALP grants.

5. A similar issue arose on an ALP grant to Trinity<sup>1</sup> Housing Association in respect of a proposed development at Crossgar. In this case £0.8 million was paid in early 2008 for a proposed 12 unit development - however this was never actually built because planning permission was not forthcoming on the site. When it became abundantly clear in 2012 that planning permission for a viable social housing scheme on the site was not going to happen the Department asked for its grant to be repaid. At that point Trinity threatened the Department with legal action to retain its money as it said there was still a possibility of a development on the site. Similar legal obstacles were threatened again in 2013 when the Department again attempted recovery of the grant.
6. In the Committee's view Trinity's behaviour was unacceptable as the Association had a public duty to repay the money when it had not been possible to progress the development. An agreement to recover the grant was only achieved in 2015 and the Committee was appalled that this allowed Trinity to retain £0.2 million of the original grant to cover expenses it had incurred at the site even though no development had taken place. As with the agreement made with Helm there is no provision for the recovery of interest.
7. There was also a further issue relating to a potential conflict of interest on the acquisition of the Crossgar site and relating to Trinity's involvement on another potential development in Newtownards. The former Chief Executive of Trinity, Mr Canning, clearly stated in his evidence to the Committee that he was unaware of the proposed Newtownards development until 2009. The date is hugely important because Mr Canning should have declared a conflict of interest in relation to it when Trinity first registered the site with NIHE in 2007. Following the evidence session the Board of Choice Housing Association (the new body which includes the former Trinity) commissioned its own investigation which strongly indicates that Mr Canning was in fact aware of the Newtownards development at a much earlier stage than he revealed to the Committee. In the Committee's opinion Mr Canning's evidence was completely lacking in credibility in this important element of the enquiry and was therefore completely unacceptable.

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<sup>1</sup> Trinity Housing Association merged with Oaklee Housing Association in March 2014 to form a new Housing Association called OakleeTrinity.

8. The Committee was surprised that even after the issue was brought to the Association's attention in 2009 it was not handled properly by either the Chief Executive and Chair of Trinity or the Department. Indeed when a number of questions about the handling of the conflict were put to the Chief Executive of Trinity it was completely unacceptable that these reasonable questions were not properly answered and that the Department was threatened with legal action by the Chief Executive. The Committee has made a number of recommendations relating to the identification and handling of conflicts of interest and that Departments should not be prevented from doing what is right merely by the threat of legal action.



# Summary of Recommendations

## Recommendation 1

The Department for Social Development (DSD) should remind Housing Associations, who are all in receipt of significant amounts of public funding, that they should expect to come within the remit of the Committee and should attend if requested. This requirement must be made a clear condition of future grant funding.

## Recommendation 2

The Department should update its guidance to Housing Associations on identifying and handling conflicts of interest to ensure it is in line with best practice. It should also ensure that appropriate training on governance requirements is in place for all Board members within Housing Associations.

## Recommendation 3

When the current court case has been completed, the Department should seek to have the investigation into the circumstances of the purchase of Great George's Street re-opened to attempt to reach some conclusions as to what exactly happened at that time. This will involve liaison with Helm, PSNI and HMRC. The conclusions should be reported to the Committee.

## Recommendation 4

The Department and the Housing Executive should review their due diligence procedures prior to paying over large amounts of grant funding. At the very least this should include making its own high level enquiries with the planning authorities and also with valuation experts in Land and Property Services.

## Recommendation 5

The evidence to the Committee was that under the Housing Order interest can be charged from the time that the decision is made to recover the grant but this has not been done in the cases of either Trinity or Helm. The Committee's view is that in future, any decisions not to charge interest should be exceptional and if so made, then the justification for the decision should be fully documented and approved. In the particular cases of Helm and Trinity the Committee consider that the Department should revisit the decision not to charge interest.

## Recommendation 6

Departments should seek to resolve differences with bodies it has provided funding to by negotiation and should inform those bodies that a very dim view will be taken by this Committee of bodies taking legal action other than as a last resort. Nevertheless the threat of legal action should not prevent a Department

doing what is right and provided it is reasonably secure in its position it should proceed.

#### Recommendation 7

Grants should be recovered within a clear time period if the development does not proceed as planned. The Department now has a timetable of a maximum of three years from the date of the grant and the Committee would expect to see this enforced in future.

#### Recommendation 8

Before grants are paid for the purchase of land, the Department / Housing Executive should consider whether the valuation provided is up to date and represents value for money. In all cases there should be a maximum period of three months between the date of the valuation and the date the grant is paid.

#### Recommendation 9

The Department should review its rules on the extent of any allowable costs on schemes which do not progress. The Committee is of the view that the Housing Association and not the Department should bear the costs of any schemes which do not progress. These rules should ensure that the costs are reasonable in the circumstances. In the specific case of the Crossgar site the Committee considers that the £194,000 of costs that has been allowed by the Department is completely excessive considering that this is a site on which nothing has been built. The Committee is of the view that all of this money should be recovered.

#### Recommendation 10

This Committee expects full co-operation, honesty and candidness from all those who attend. This includes witnesses who attend from charities and other bodies in receipt of public funds. Departments should remind all bodies in receipt of public funds of this requirement.

#### Recommendation 11

The Department should remind all Housing Associations that they should have procedures in place to identify potential conflicts of interest. Once potential conflicts have been addressed then action should be taken to appropriately deal with them. If the Department becomes aware of potential conflicts of interest in bodies that they provide funding to then they should ensure they are appropriately managed.

#### Recommendation 12

The stone-walling of reasonable questions and the subsequent involvement of legal advisers to prevent these questions being answered is not acceptable behaviour for a Chief Executive of an organisation in receipt of a significant amount of public expenditure. In any future similar situations the Committee

**recommends that the Department should take robust action and not be deterred by the threat of legal action.**

### Recommendation 13

The Committee recommends that training and guidance for the Department, NIHE and Housing Associations is provided on how to deal with perceived and potential conflicts of interest. The Audit Office has recently published a Good Practice Guide on Conflicts of Interest which helps Board members and staff in key positions recognise when they have a conflict of interest and how they should act when such a situation arises. Public Bodies must ensure that conflicts of interest are identified and managed in a way that safeguards the integrity of staff and Board members and maximises public confidence in the organisation's ability to deliver public services properly.

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## Advanced Land Purchases

### Background

1. The Housing Association sector in Northern Ireland receives substantial grant funding from the Department for Social Development (the Department) to allow it to develop new social housing. There are currently 26 Housing Associations registered as charities which sit outside the public sector. The Department is responsible for regulating this sector and for ensuring that it achieves value for money on the grant funding it provides.
2. The Comptroller and Auditor General (C&AG) has reported for a number of years on significant matters relating to the Housing Association sector generally and the Department's regulation of it, including:
  - Serious governance issues that arose in Helm Housing Association a number of years ago, including an outrageous 'flip sale' at Great Georges Street Belfast;
  - Delays in recovery of grants awarded for the purchase of land by both Trinity and Helm Housing Associations when no social housing had subsequently been developed; and
  - The handling of a potential conflict of interest by Trinity Housing Association.
3. In April 2007, the Department paid an Advanced Land Purchase (ALP) grant of £8.1 million to Helm for the purchase of a site in Great George's Street, Belfast to develop 130 social housing units. No development ever took place but it was only in July 2014 that the Department agreed a repayment programme with Helm to recover the full £8.1 million. In addition there were huge concerns about the way the site was purchased as the site was sold by the original owner to a third party for £6.5 million who then sold it to Helm on the same day for £9.75 million whilst also realising a profit of £3.25 million.
4. Trinity was paid an ALP grant of £835,000 in August 2007 to purchase a site in Crossgar from a developer in order to build 12 social housing units. Since then there have been numerous unsuccessful planning applications and as a result no development has taken place. The Department sought to recover the grant in May 2012 but this was rejected by Trinity who challenged the right of the Department to ask for recovery at that time. Despite further requests being made for the money to be repaid it was only on 23 March 2015 that an agreement was reached to recover £641,000, with the remaining £194,000 being treated as allowable costs that Trinity had already incurred on the site.
5. Another issue arose on the same site at Crossgar. At the same time the developer sold the site at Crossgar to Trinity he also purchased the house belonging to the brother of Trinity's Chief Executive in Newtownards for £700,000 in order to get access to develop on a larger site. Trinity had also registered an interest to develop social housing on this site. The potential conflict of interest was not identified at the time and only came to light some time later.

### Governance and regulation of Housing Associations

6. The Committee experienced considerable difficulty in arranging the attendance of the Chief Executive of Trinity Housing Association at its evidence session. It is the

Committee's view that as Housing Associations are in receipt of public expenditure of approximately £100 million each year, senior officials from Housing Associations should expect that their stewardship of public money will be subject to democratic scrutiny.

7. The Committee expects that all public services, including those delivered by Housing Associations, should be delivered to high ethical standards regardless of whether they are being delivered by a public body, a private sector contractor or a charity.

#### **Recommendation 1**

**The Department for Social Development (DSD) should remind Housing Associations, who are all in receipt of significant amounts of public funding, that they should expect to come within the remit of the Committee and should attend if requested. This requirement must be made a clear condition of future grant funding.**

8. The Committee was concerned to discover that prior to 2005 there appears to have been only minimal regulation of the sector and notes that this is likely to have been a significant reason behind the fact that the first round of inspections by the Department from 2006 to 2009 found significant weaknesses resulting in 40% of the Housing Associations failing at that time. Nevertheless the Committee was pleased to note that there has been a significant improvement in the results of inspections in recent years and this general improvement, which has been driven at least in part by the Department, is to be welcomed.
9. There do, however, continue to be significant issues in some Associations which need to be addressed. The Committee considers that more work must be done in improving governance arrangements in Housing Associations, particularly around ethics. The evidence session showed clear misunderstandings of the rules on potential or perceived conflicts of interest by both Trinity Housing Association and surprisingly also the Department. The Department should ensure it clarifies its understanding of its own rules and that these are clearly communicated to all Housing Associations.
10. The Committee was also concerned to hear that the Department has no direct influence over the appointment of Board members of Housing Associations. At the very least the Department should work with the Federation of Housing Associations to ensure that all Board members have the relevant skills and experience and that relevant training is given to all Board members.

#### **Recommendation 2**

**The Department should update its guidance to Housing Associations on identifying and handling conflicts of interest to ensure it is in line with best practice. It should also ensure that appropriate training on governance requirements is in place for all Board members within Housing Associations.**

### **Helm Housing Association**

11. The second round of inspections by the Department in 2010 identified serious concerns in Helm Housing Association. The Committee was shocked at the scale of the problems identified at that time which involved huge weaknesses in controls right across the organisation and resulted in significant losses to the resources of the Association. It is essential that the lessons learned from this debacle have been

communicated across the sector and that the Department ensure that something like this is not allowed to happen again.

12. One issue relating to Helm was particularly shocking. This was the purchase of a site at Great George's Street, Belfast in 2007. The site was purchased by Helm for £9.75 million but on the day of purchase the site had first been sold by the owner to a third party (since traced to a company in the Isle of Man, acting on behalf of Lacuna Developments Ltd), for £6.5 million who then immediately sold it to Helm for £9.75 million. Third parties therefore appear to have made a profit of £3.25 million on this sale in a matter of hours.
13. The valuation placed on the property by professional valuers is currently the subject of a [court case](#). The provisional judgment in this case has been critical of the valuers, not least their omission to disclose certain details in accordance with the RICS Red Book. While the final outcome of this case is likely to shed further light on the circumstances of the purchase of Great George's Street, the Committee was still dismayed to find that despite investigations by both Helm and the Department it had not been possible to obtain any explanation for this highly suspect transaction. The Committee also noted that while PSNI had been consulted on this issue they had considered that there was not enough grounds to begin an investigation. It is the Committee's view that it is not acceptable to simply leave this transaction unexplained.

### **Recommendation 3**

**When the current court case has been completed, the Department should seek to have the investigation into the circumstances of the purchase of Great George's Street re-opened to attempt to reach some conclusions as to what exactly happened at that time. This will involve liaison with Helm, PSNI and HMRC. The conclusions should be reported to the Committee.**

### **Advanced Land Purchase Grant**

14. Advanced Land Purchase (ALP) grant is provided to Housing Associations as an up-front payment of Housing Association Grant (HAG) in order to allow them to have the funding available to purchase a site to be used to develop social housing. It is clear from the evidence given to the Committee that, prior to 2011, the rules of the scheme were wide open to abuse.
15. In order to receive ALP grant, Associations were required to produce a valuation of the land and a statement about the likelihood of achieving planning permission from a competent person without requiring anything specific from the Planning Service. It beggars belief that at this time, there was no requirement to even discuss the possibility of obtaining planning permission with Planning Service. There were two particular instances that were examined by the Committee - Great George's Street and a proposed site by Trinity in Crossgar.

### **HELM- Great George's Street ALP**

16. The Department provided a grant of £8.1 million to Helm for the purchase of the land at Great George's Street on the basis of a valuation of £10 million from a valuer appointed by Helm and confirmation from the same valuer that planning permission was likely to be received for the site. The Committee noted that even if the

development had been approved for the proposed 130 units, the cost per unit would have been £62,000 for the site alone. The Committee views this as excessive for a site in this area, even allowing for the property boom at that time and was surprised that the Department or Housing Executive did not query this.

17. The Department did not attempt to discuss the likelihood of Helm obtaining planning permission from the Planning Service before making the grant payment. Following purchase of the site, Helm was unable to obtain planning permission for the development because of a proposed road development.
18. The Committee considers that it should have been clear that planning permission was highly unlikely on this site because of published road plans. It is shocking that a short phone call to the Planning Service could have identified this and saved a huge waste of resources.

#### **Recommendation 4**

**The Department and the Housing Executive should review their due diligence procedures prior to paying over large amounts of grant funding. At the very least this should include making its own high level enquiries with the planning authorities and also with valuation experts in Land and Property Services.**

19. The Committee was also disappointed to note that even when it became clear that planning permission was not going to be achieved on the site, the Department was unable to come to an agreement for the recovery of the grant until July 2014. The agreement that was eventually reached allows for the grant to be repaid over a three year period. By the time the £8.1 million grant will be fully repaid, it will have been outstanding for 10 years. This money has been lost to public housing for that time and it is difficult to understand why the Department is not also recovering interest on the grant.

#### **Recommendation 5**

**The evidence to the Committee was that under the Housing Order interest can be charged from the time that the decision is made to recover the grant but this has not been done in the cases of either Trinity or Helm. The Committee's view is that in future, any decisions not to charge interest should be exceptional and if so made, then the justification for the decision should be fully documented and approved. In the particular cases of Helm and Trinity the Committee consider that the Department should revisit the decision not to charge interest.**

### **Trinity - Crossgar ALP**

20. In August 2007 Trinity Housing Association purchased a site in Crossgar from a developer at a cost of £885,000 with the intention of developing 12 social housing units. This was based on a valuation of £900,000 by a property consultant appointed by Trinity in May 2007 and who also confirmed that planning permission should be achievable. This valuation was carried out at the height of the property market in 2007 and the amount paid equated to around £74,000 per unit for the site alone, even if the full development had gone ahead.
21. In 2008, Trinity received £835,000 ALP grant from the Department on the basis that 12 social housing units would be developed on the site. Over the following years there

were a number of unsuccessful planning applications for different numbers of housing units on the site and in May 2012 the Housing Executive decided to ask for repayment of the grant. This was immediately challenged by Trinity's solicitors and the Housing Executive backed off, until it wrote again in April 2013, this time saying it was 'minded to' ask for the grant back. This was also challenged by Trinity's solicitors and no further progress was made until the Housing Executive wrote to Trinity in October 2014 again seeking repayment and an agreement was finally made in March 2015 to recover £641,000 with the remaining £194,000 being treated as allowable costs that Trinity has already incurred on the site.

22. The Committee was dismayed to see the threat of legal action being used in the first instance by Trinity in an attempt to allow it to hold on to money it had received and not delivered its side of the bargain on. This is not the way we expect bodies in receipt of public funds to act. We would expect all bodies in receipt of public funds to co-operate and only as a very last resort seek legal action.
23. The Committee is concerned that, having requested repayment of the grant in May 2012, both the Department and the Housing Executive should have been much more forceful in negotiating the repayment of the grant and not have been scared off by the threat of legal action. We consider that it has only been possible to reach an agreement with Trinity because they knew this issue would be discussed at a Public Accounts Committee.

#### **Recommendation 6**

**Departments should seek to resolve differences with bodies it has provided funding to by negotiation and should inform those bodies that a very dim view will be taken by this Committee of bodies taking legal action other than as a last resort. Nevertheless the threat of legal action should not prevent a Department doing what is right and provided it is reasonably secure in its position it should proceed.**

#### **Recommendation 7**

**Grants should be recovered within a clear time period if the development does not proceed as planned. The Department now has a timetable of a maximum of three years from the date of the grant and the Committee would expect to see this enforced in future.**

24. As was the case with the Helm purchase at Great George's Street, it seems clear that a brief conversation with the Planning Service prior to the payment of the ALP grant for this site would have identified that there were fundamental concerns with the site and that planning permission for the proposed development was very unlikely.
25. It is also concerning that the grant paid out in January 2008 was based on a valuation of the land from May 2007, even though it should have been clear to anyone with any knowledge of the property market that land values would have fallen considerably over the intervening period.

#### **Recommendation 8**

**Before grants are paid for the purchase of land, the Department / Housing Executive should consider whether the valuation provided is up to date and represents value for money. In all cases there should be a maximum period of three months between the date of the valuation and the date the grant is paid.**



26. An agreement was made on 23 March 2015 to recover the grant of £835,000, but the Committee was shocked to be told that this would result in the recovery of only £641,000 with the remainder of £194,000 being treated as allowable costs that Trinity has already incurred on the Crossgar site. As no development has taken place on the site, the Committee was appalled at the extent of these allowable costs and considers that either no costs should have been allowed or these should have been very minimal.

#### **Recommendation 9**

**The Department should review its rules on the extent of any allowable costs on schemes which do not progress. The Committee is of the view that the Housing Association and not the Department should bear the costs of any schemes which do not progress. These rules should ensure that the costs are reasonable in the circumstances. In the specific case of the Crossgar site the Committee considers that the £194,000 of costs that has been allowed by the Department is completely excessive considering that this is a site on which nothing has been built. The Committee is of the view that all of this money should be recovered.**

27. As is the case with recovering the Helm grant, the Committee is also surprised that the Department is not seeking to charge any interest on the recovery of the grant despite it having been outstanding for over seven years and the fact that Trinity has been so uncooperative in dealing with this issue. As already referred to in recommendation 5, the Committee consider that the Department should revisit their decision not to charge interest in this case.
28. The Committee recognises that the Department has put some of these changes in place over the last few years but it is important that they are fully implemented in all cases, particularly in any future situations where development does not proceed as planned.

#### **Trinity - Handling of a potential conflict of interest**

29. The background to this is:
- Trinity registered an interest with NIHE for a site in the Beverley area of Newtownards in July 2007 to build 36 units.
  - Trinity purchased the Crossgar site from a developer who was attempting to assemble the land for the Beverley site in early August 2007 for £885,000.
  - The same developer then purchased the house of the brother of Trinity's Chief Executive as key access land to the Beverley site in late August 2007. This was purchased for £700,000 which represented a premium price compared to other houses in the area, reflecting its value as key access land. However, the Committee also noted that the house next door to that of the brother of Trinity's Chief Executive, which was also required as key access land, was sold for just £380,000 in December 2008.
  - The Chief Executive of Trinity did not identify this potential conflict until it was the subject of newspaper discussion which was brought to his attention in April 2009.
30. The Committee is concerned that there appears to have been a complete lack of understanding on how to handle a potential or perceived conflict of interest by both the Department and Trinity Housing Association.

31. Trinity's Chief Executive, Mr Canning, told the Committee that he was unaware that his organisation had any interest in developing the site at Beverley until it was brought to his attention in newspaper reports in mid 2009. This lack of knowledge until 2009 was reiterated on several occasions during the evidence session.
32. Even at the time of the hearing the Committee found the evidence to be unconvincing and felt that if it had been true that the Chief Executive had no awareness of the future development plans of his Association, then this was a sad indictment of how he ran his organisation. However, since the Committee's evidence hearing in February 2015, the Board of Choice Housing Association (the new Association which includes Trinity) has carried out its own investigation which reported in August 2015<sup>2</sup>. This investigation has identified a number of pieces of new evidence that indicates Mr Canning was aware of Trinity's interest in the Beverley site from mid 2007. These include:
- A report to Mr Canning in June 2007 from Trinity's development manager identifying 17 ongoing matters of which the Beverley site was one;
  - A meeting on 5 July 2007 between Mr Canning and the developer of both the Crossgar and Beverley sites. No minutes were kept of this meeting.
  - A letter dated 6 July 2007 from Trinity's development officer to NIHE confirming that Trinity had been offered the Beverley site;
  - A letter dated 16 July 2007 from the developer to Mr Canning thanking him for his hospitality at the meeting on 5 July and offering Trinity the opportunity to purchase the Beverley site;
  - A letter from Mr Canning to the developer dated 27 July 2007 referring to the 16 July letter and saying that Trinity was anxious to pursue the proposal;
  - An incident in July 2007 in Trinity's kitchen where Trinity's development officer recalled that Mr Canning looked at the map of the Beverley site and pointed at it saying 'And I know whose house that is';
  - A meeting with a valuer at the Beverley site at which the valuer was 'almost certain' Mr Canning had also attended.
33. Mr Canning was adamant in his evidence to the Committee that he was unaware of the Beverley site until 2009. While the Committee understand that Mr Canning still stands over the evidence he gave it seems clear that this evidence given by Mr Canning was completely lacking in credibility. The date that Mr Canning knew of the Beverley development was key to considering the conflict of interest as it meant that it should have been fully registered and dealt with at that time.

#### **Recommendation 10**

**This Committee expects full co-operation, honesty and candidness from all those who attend. This includes witnesses who attend from charities and other bodies in receipt of public funds. Departments should remind all bodies in receipt of public funds of this requirement.**

34. Once Mr Canning became aware of a potential conflict, he should have completely removed himself from any discussions regarding the development and had this noted by the Board. However no action was actually taken as the view at the time was that

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<sup>2</sup> Reilly AJ, 3 August 2015, Trinity Housing Limited Report

there was no conflict of interest to respond to. The Committee was then further alarmed by the response of the then Chair of the Trinity Board to the Department outlining that “the conflict of interest has no foundation” and “that the potential of conflict cannot be considered in anything other than the hypothetical.” This was plainly wrong and should have been strongly challenged by the Department at the time.

35. The Committee is further concerned that Mr Canning still does not believe there was a potential conflict of interest that should have been addressed and also that representatives from the Department did not appear to be completely clear as to what constitutes a perceived conflict of interest and how these should be dealt with.

#### **Recommendation 11**

**The Department should remind all Housing Associations that they should have procedures in place to identify potential conflicts of interest. Once potential conflicts have been addressed then action should be taken to appropriately deal with them. If the Department becomes aware of potential conflicts of interest in bodies that they provide funding to then they should ensure they are appropriately managed.**

36. The Committee is disappointed that in response to three reasonable questions posed by the Audit Office, Mr Canning decided to involve his solicitors rather than fully answer the questions. This is not the way we expect the Chief Executive of an organisation in receipt of substantial public funding to conduct business. The Committee expects that the Chief Executive should have answered the questions at the time they were posed to him.

#### **Recommendation 12**

**The stone-walling of reasonable questions and the subsequent involvement of legal advisers to prevent these questions being answered is not acceptable behaviour for a Chief Executive of an organisation in receipt of a significant amount of public expenditure. In any future similar situations the Committee recommends that the Department should take robust action and not be deterred by the threat of legal action.**

#### **Recommendation 13**

**The Committee recommends that training and guidance for the Department, NIHE and Housing Associations is provided on how to deal with perceived and potential conflicts of interest. The Audit Office has recently published a Good Practice Guide on Conflicts of Interest which helps Board members and staff in key positions recognise when they have a conflict of interest and how they should act when such a situation arises. Public Bodies must ensure that conflicts of interest are identified and managed in a way that safeguards the integrity of staff and Board members and maximises public confidence in the organisation's ability to deliver public services properly.**

37. Finally the investigation commissioned by Choice Housing Association also highlighted how the developer had benefited financially by selling the land at Crossgar to the Association. In broad terms the timeline for the sale was:

January 2007	Trinity make a request for and receive support from NIHE for a development at the Crossgar site. Trinity also carry out an economic appraisal in which is based on a price for the site of £885,000.
28 February 2007	The developer formally agrees to buy the Crossgar site for £700,000. Only a deposit is paid with the balance due on completion which is within five days of the vendor asking for it.
27 July 2007	Trinity formally agree to buy the Crossgar site from the developer for £885,000
31 July 2007	The developer completes the original contract to purchase Crossgar site for £700,000
2 August 2007	Trinity complete the purchase of the Crossgar site from the developer for £885,000

38. Therefore as a result of this transaction the developer was able to make a profit on the Crossgar site of £185,000 based on an outlay of money for three days. The report prepared by Choice concludes that Trinity was unaware of the earlier transactions and the fact that the developer had purchased the property at a considerable cheaper price. As with the purchase of Great George's Street by Helm the best construction that can be placed on this is that developers were running rings around these Housing Associations. It is essential that the Department ensures a greater commercial awareness in these transactions in future.

## Links to Appendices

Minutes of Proceedings can be viewed [here](#)

Minutes of Evidence can be viewed [here](#)

Correspondence can be viewed [here](#)

Other Documents relating to the report can be viewed [here](#)

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