

MUNICIPAL YEAR 2013/2014 REPORT NO. 163

MEETING TITLE AND DATE:

Cabinet, 22nd January
2014

REPORT OF: Director of
Health, Housing and Adult
Social Care

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Agenda – Part: 1

Item: 8

**Subject: Estate Renewal Leaseholder
Framework Report**

**Wards: ALL
Key Decision No: 3773**

**Cabinet Member consulted: Councillor
Ovkener**

1. EXECUTIVE SUMMARY

- 1.1 The Council's Development and Estate Renewal Team is responsible for the renewal of the worst performing council estates, delivering affordable housing and creating stronger communities.
- 1.2 The Team oversees the delivery of a number of renewal projects (Alma, Ladderswood, Highmead, Small Housing Sites, New Avenue and Dujardin) in addition to facilitating affordable housing with Registered Provider partners and providing the Council with a strategic approach to delivering new housing.
- 1.3 The creation of stronger neighbourhoods necessitates changes to place and improving the prospects of the local community. The Council is clear that estate renewal projects must regenerate areas not simply rebuild estates.
- 1.4 Improving the prospects of local communities has a number of implications. This report considers the impact upon leaseholders across estate renewal sites.
- 1.5 There are leaseholders remaining on Ladderswood, Alma and New Avenue. This report sets out the principles which will govern how the Council repurchases leaseholders on these estates and future estate renewal projects.
- 1.6 The report recommends that each estate should have a leaseholder booklet specific to the estate to take into account different property values in different areas of the borough which affects the nature of the offers.

2. RECOMMENDATIONS

It is recommended that Cabinet:

- 2.1 Approves the guiding set of leaseholder principles included at paragraph 4.6.
- 2.2 Notes the intention for each estate renewal project to have an individual leaseholder booklet which will all be governed by the same principles.
- 2.3 Delegates to the Director of Health, Housing and Adult Social Care and the Director of Finance, Resources and Customer Services the authority to approve the estate specific leaseholder booklets.
- 2.4 Agrees to establish an Exceptions Panel, as set out in paragraph 4.11 of the report, and to delegate to the Assistant Director of Council Housing, the Assistant Director of Community Housing Services and the Assistant Director of Property Services the authority to make decisions on the Exceptions Panel in accordance with the financial limits prescribed in the respective schemes of delegation.

3. BACKGROUND

- 3.1 The regeneration of council estates has an important role to play in contributing to the wider corporate objectives of facilitating strong communities, ensuring fairness for all and growth and sustainability.
- 3.2 The approach to leaseholders is governed by the corporate objective of fairness for all. Ensuring leaseholders are not financially disadvantaged as a consequence of the regeneration will ensure fairness for all leaseholders. Ensuring that the deals offered to leaseholders are proportionate will ensure fairness to all who finance the Housing Revenue Account.
- 3.3 A key characteristic of strong communities are stable communities. Estate renewal projects can result in an unintended consequence of displacing residents which can weaken and unsettle long standing communities. Enabling resident leaseholders to remain in the regeneration area supports the establishment of strong communities.
- 3.4 Growth and sustainability is underpinned by good quality housing. Jobs and opportunities can be impeded if housing is not appropriately located, affordable and good quality.
- 3.5 There are leaseholders remaining on three of the estate renewal sites. On Ladderswood the Council has successfully purchased 39 residential leases with 5 residential leases remaining to be bought back. On Alma 35 of the 170 residential leases have been purchased leaving 135 residential leases remaining to be bought back and on New Avenue 1 residential lease has been purchased leaving 32 residential leases remaining to be bought back.

- 3.6 All leaseholders who have sold their properties back to Council have been paid in compliance with statutory requirements; market value +10% homeloss payment for resident leaseholders and +7.5% basic-loss payment for non-resident leaseholders. In addition disturbance compensation covering reasonable associated costs such as valuation and legal fees are also paid.
- 3.7 The statutory offer will continue to enable the Council to repurchase a large number of leaseholders across the estates. However, we are proposing to provide additional options to resident leaseholders to help enable them to remain within the existing community. This will have the additional benefit of reducing the risk of the Council having to resort to using Compulsory Purchase Order (“CPO”) powers.
- 3.8 This report explains the guiding set of principles which will govern the Council’s approach to purchasing leasehold properties across existing estate renewal projects as well as future ones.
- 3.9 Due to the differing needs of leaseholders on estates in different areas of the borough it is proposed that an individual leaseholder booklet is prepared for each project excluding Ladderswood due to the small number of leaseholders remaining.

4. LEASEHOLDER PRINCIPLES

- 4.1 The approach to leaseholders is governed by the Council’s strategic priorities. The following paragraphs explain how the Council’s strategic priorities have informed the approach to leaseholders on estate renewal projects.
- 4.2 Fairness for all leaseholders has been interpreted to mean in this context that no existing leaseholder should be financially disadvantaged as a result of the regeneration scheme.
- 4.3 It is also fair that resident leaseholders have a choice of options and accommodation to help enable them to remain as part of the existing community.
- 4.4 Strong communities are invariably stable communities. It is therefore right that existing resident leaseholders should have an ability to continue living in the regeneration area. Financial hardship and high levels of debt place strain upon families and can weaken community ties. It is therefore incumbent upon the Council not to make available housing options to resident leaseholders who haven’t got the financial means to be able to afford ongoing housing costs.
- 4.5 Growth and sustainability is in this context about regeneration and improving opportunities and life chances through housing options. Successful regeneration does not improve deprivation indicators and

the fabric of neighbourhoods through the shortcut of importing affluence but instead it seeks to ensure that existing residents are the principal beneficiaries of the opportunities created by the regeneration investment. This regeneration objective underpins all of the proposed governing principles.

- 4.6 It is recommended that Cabinet approves that the following set of four principles govern the approach to leaseholders across all existing and future estate renewal sites.
 - a) When purchasing a property that is comparable leaseholders should not be financially disadvantaged
 - b) Provide an opportunity for resident leaseholders to remain in the regeneration area
 - c) Provide resident leaseholders with a fair choice
 - d) Encourage resident leaseholders to exercise financial responsibility and have access to independent financial advice
- 4.7 The four principles have both quantitative and qualitative implications for the Council which will need to be carefully considered in each of the individual leaseholder booklets.
- 4.8 The first principle commits the Council to avoiding leaseholders being financially disadvantaged when purchasing a property similar to their existing property. This will mean that options will need to be calibrated for those leaseholders who are for example currently mortgage free, unable to raise private finance, in negative equity or have no income.
- 4.9 The second principle commits the Council to enabling existing resident leaseholders to remain living in the regeneration area. This will mean that the project will need to finance shared equity homes either on or adjacent to the affected estate.
- 4.10 The third principle commits the Council to improving the range of options to resident leaseholders beyond the statutory minimum that is required. The fourth principle can be supported by the Council financing the cost of an independent financial advisor on each of the regeneration estates to ensure that resident leaseholders make the right financial decision for their household.
- 4.11 On every estate there will be unique cases which require a bespoke solution. It is recommended that every leaseholder booklet proposes an Exceptions Panel to decide on these uniquely difficult cases. It is suggested that the Exceptions Panel should meet at an Assistant Director level and be empowered to make decisions on the difficult cases where, in particular, without a unique response the leaseholder is only faced with options which do not comply with the governing principles above.

- 4.12 The Exceptions Panel will be required to meet to discuss and adjudicate on cases as and when required. All cases would need to be evaluated against the four principles above. The types of decisions that the panel will be able to make will be those which improve the financial terms of an offer to a leaseholder to avoid them from being financially disadvantaged.

5. LEASEHOLDER CONSULTATION AND ENGAGEMENT

- 5.1 The Council has an excellent track record of engaging leaseholders on regeneration estates. There are leaseholder panels on both the New Avenue and Alma Estate projects. It is proposed that prior to the release of leaseholder booklets for specific estates there is a full engagement with leaseholders to provide them with a genuine opportunity to influence the final booklet for their estate.

6. ALTERNATIVE OPTIONS CONSIDERED

- 6.1 There is no statutory requirement for the Council to extend the offer to leaseholders beyond the statutory minimum offer described above. The alternative option is therefore to restrict the offer to leaseholders to the statutory minimum. The report explains that improving the range of options available to resident leaseholders ensure greater compliance with the Council's corporate objectives.
- 6.2 A second alternative option is to increase the options available to non-resident leaseholders. This would invariably necessitate a public subsidy of investors and cannot be justified as a good use of public resources.

7. REASONS FOR RECOMMENDATIONS

- 7.1 The reason for recommending the approach outlined within this report is because they are fully aligned with the Council's strategic priorities.

8. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS

8.1 Financial Implications

- 8.1.1 The proposals outlined in this report will assist in meeting the Council's strategic priorities and facilitate estate renewal projects, however there will be additional costs associated with doing this.
- 8.1.2 If residential leaseholders should not be financially disadvantaged when purchasing a comparable property there will potentially be a requirement for the HRA to provide additional resources to fund the difference in cost. If for example a shared equity scheme is developed the HRA may acquire part of an asset but this will be a

long term investment. Any schemes where leaseholders are given interest free or rent free periods or similar would be a cost to the HRA.

8.1.3 The effect of this on the HRA Business Plan and on the financial viability of existing estate renewal projects will be updated to assess the impact of the detailed proposals for each estate. The HRA Business Plan is under pressure in the early years (years 1 to 8) and any additional resources required will likely reduce the resources available for the existing HRA capital programme and the current estate renewal projects.

8.1.4 Additional funding may be available from the Mayors fund to support leaseholder schemes and it is also possible that the cost associated with any proposals may be recouped from the anticipated capital receipts from the appointed developers.

8.2 Legal Implications

8.2.1 Section 1 of the Localism Act 2011 provides the Council with the power of general competence and states that that a local authority has power to do anything that individuals generally may do. Section 2 sets out the boundaries of the general power, requiring local authorities to act in accordance with statutory limitations or restrictions. For instance, if an existing power requires a particular procedure to be followed, the same procedure will apply to the use of the general power. Section 111 of the Local Government Act 1972 confers on a local authority power to do anything which is incidental to the discharge of any of its functions.

8.2.2 It is considered that the incidental power under section 111 of the Local Government Act 1972, together with Section 1 of the Localism Act 2011 can be used to authorise improving the financial terms of an offer to a leaseholder to avoid them from being financially disadvantaged. The recommendations within this report are in accordance with these powers.

8.3 Property Implications

8.3.1 The proposed leaseholder options booklets will recognise that the Council must meet statutory requirements when negotiating the purchase of leasehold interests. It is proposed that the terms for each purchase are approved under delegated authority and in accord with the Property Procedure Rules.

8.3.2 The additional options that will be made available to resident leaseholders recognise the value of retaining existing leaseholders within the estate renewal area. These options are designed to assist the purchase of a replacement home in the area in circumstances where personal financial circumstances may preclude this. The

options involve assisting through providing various form of equity share. These options do not involve paying more than a leasehold property is worth or selling new properties on the estate at less than market or using public money to improve a leaseholders' housing status.

- 8.3.3 The proposal to set up an Exceptions Panel recognises a need for flexibility in exceptional circumstances to assist in obtaining vacant possession within the estate renewal project timescales. This may result in additional payments over and above market value and statutory payments. This will be authorised on a case by case basis by the Exceptions Panel which includes the Assistant Director of Property Services and decisions will need to be justified in relation to project requirements and timing of the confirmation of compulsory purchase powers.

9. KEY RISKS

- 9.1 The first key risk related to improving this report is it could increase the cost of individual estate renewal projects by needing to adhere to the principles set out in this report. This risk is mitigated by recommendation 2.3. The individual directors will need to consider the financial implications to the individual projects.
- 9.2 The second key risk is the risk of challenge from a leaseholder or a third party. This is an ongoing risk that is best managed by taking decisions which balance fairness to leaseholders with the Council's fiduciary duties.

10. IMPACT ON COUNCIL PRIORITIES

- 10.1 The body of the report explains how the approach to resident leaseholders supports the Council's priorities.

11. EQUALITIES IMPACT IMPLICATIONS

- 11.1 An equalities impact assessment will be carried out on each booklet.

12. PERFORMANCE MANAGEMENT IMPLICATIONS

- 12.1 There are no performance management implications.

13. HEALTH AND SAFETY IMPLICATIONS

- 13.1 There are no direct health and safety implications arising from this report.

14. HR IMPLICATIONS

- 14.1 Delivering major estate regeneration projects is a significant undertaking for the Council. The Development and Estate Renewal Team has had to expand to ensure that the complex needs of residents are being met.
- 14.2 The Team currently includes a Leaseholder Buyback Manager who is responsible for facilitating the repurchase of leaseholders on the Alma, Ladderswood and New Avenue estates as well as a property surveyor. The Team also appoints independent external valuers to carry out the valuation of leasehold properties.
- 14.3 As the project evolves so the need for different skills to adequately resource the demands of the project will need to evolve so the team will need to maintain a flexible approach.

15. PUBLIC HEALTH IMPLICATIONS

- 15.1 There are no direct public health implications as a result of the recommendations within this report.

Background Papers

None