

Report for: Cabinet 14 July 2020

Title: Leasehold acquisition and equity loan arrangements on Broadwater Farm

Report

Authorised by: Mark Baigent, Interim Director of Housing, Regeneration and Planning

Lead Officer: David Sherrington, Director of Broadwater Farm and
Christine Addison, Interim Assistant Director of Strategic Property

Ward(s) affected: **West Green**

Report for Key/

Non-key Decision: Key Decision

1. Describe the issue under consideration

- 1.1. In November 2018, following detailed consultation with tenants and leaseholders, Cabinet approved the demolition of both Tangmere and Northolt blocks. At the same time, it approved the Broadwater Farm Rehousing and Payments Policy (BFRPP) and agreed that the rehousing of tenants and leaseholders from Northolt and Tangmere should commence as soon as practicable. The Cabinet also gave delegated authority to the Director of Housing, Regeneration and Planning to determine the exact date that the rehousing of both Northolt and Tangmere should commence. The rehousing will be carried out under the BFRPP.
- 1.2. This report seeks Cabinet approval to delegate authority to the Director of Housing, Regeneration and Planning to offer Equity Loans in certain circumstances to residential leaseholders, to assist in the purchase of properties outside the borough, in order to ensure that the objectives of the policy are fulfilled.
- 1.3. The report also seeks Cabinet approval for a policy where a resident leaseholder of a Tangmere or Northolt property requests and is granted a social tenancy of the same or another property to replace his or her interest. In these circumstances the Council would pay the leaseholder a sum lower than full market value (as set out in the policy) for the leasehold interest, in addition to any applicable Home Loss and Disturbance payments.
- 1.4. The report also seeks Cabinet approval to acquire all of the Leaseholders' interests in both Northolt and Tangmere and to delegate authority to the Director of Housing, Regeneration and Planning to approve each acquisition and any individual equity loans to be provided as set out in the BFRPP.

2. Cabinet Member Introduction

- 2.1. This report sets out a number of important recommendations to support our vital work on the rehousing of leaseholders on the Broadwater Farm estate.

- 2.2. The Council is committed to working with leaseholders to identify rehousing solutions that meet their needs and this report sets out additional options to support leaseholders.

3. Recommendations

- 3.1. It is recommended that Cabinet:

- 3.1.1. Agrees to the acquisition of all leaseholders' interests in both Northolt and Tangmere for a maximum total sum of [EXEMPT] and gives delegated authority to the Director of Housing, Regeneration and Planning, after consultation with the Director of Finance and Cabinet Member for Housing and Estate Renewal, to agree the price and terms of each acquisition.
- 3.1.2. Gives delegated authority to the Director of Housing, Regeneration and Planning to approve any individual equity loans to eligible resident leaseholders, as provided for in the Broadwater Farm Rehousing and Payments policy.
- 3.1.3. Authorises the Director of Housing, Regeneration and Planning, notwithstanding the terms of the Broadwater Farm Rehousing and Payments Policy, to offer Equity Loans to support the purchase of properties outside the borough in exceptional circumstances taking account of the recommendation of the Discretionary Panel Discretionary Panel.
- 3.1.4. Approves the policy set out at Appendix one, setting out the offer that the Council will make for the leasehold interest in a property on Broadwater Farm where the owner wishes to be granted a social tenancy of the same or another property in replacement of his/her interest.
- 3.1.5. Authorises the Director of Housing, Regeneration and Planning to approve the offer of a social tenancy to leaseholders, acting on the recommendation of the discretionary panel (as set out in the Broadwater Farm Rehousing and Payments Policy) in line with policy set out in Appendix one.

4. Reasons for decision

- 4.1. Despite ongoing negotiations, there remain eight (8) leaseholders in Northolt and six (6) leaseholders in Tangmere who have not yet agreed to the sale of their homes.
- 4.2. Acquiring the remaining leasehold properties in Tangmere and Northolt is a high priority. Structural surveys have identified that the buildings have failed the required safety tests. While risks are currently being mitigated, it is important to acquire the remaining flats as quickly as possible so demolition can be carried out.
- 4.3. The Council is unable to force private owners (leaseholders) to sell their properties unless it applies for compulsory purchase powers. The Council is preparing for this eventuality, but before doing so is seeking to acquire the leasehold properties by

private treaty. Following lengthy discussions with leaseholders and the Independent Tenant and Leaseholder Advisor, officers believe that if the recommendations in this report are approved, the need to use compulsory purchase powers may be diminished.

- 4.4. The recommendations in this report are primarily aimed at accelerating the acquisition of leasehold properties and ensuring delegations exist to execute existing policy without having to return to Cabinet for further approvals on individual cases.
- 4.5. In making these recommendations it is recognised that the issues on Broadwater Farm are pressing and unique and it is in the Council's and residents' interests to expedite the acquisition process. Market values for homes on Broadwater Farm are among the lowest in London, making it difficult for leaseholders to move to similar properties within the area. The homes are structurally unsound and while the known risks are being mitigated, it is not satisfactory to mitigate them in the long term. These partially empty blocks are also an ongoing security and squatting risk and the cost to the council of mitigating the risks on the estate are high as they include 24-hour security.
- 4.6. When acquiring properties in advance of a possible Compulsory Purchase Order, the Guidance on Compulsory Purchase 2019 sets out that Councils should consider value for money in terms of the Exchequer as a whole, as set out in paras 6.9 to 6.11 below. Recommendation 3.1.1 therefore aims to ensure that the Council adheres to this Guidance when undertaking leasehold acquisitions. More information on this approach is set out in Part B of this report.

5. Alternative options considered

Not to extend the leaseholder offer

- 5.1. This option was discounted as it would not help accelerate the acquisition of leasehold interests nor would it allow the Council to complete acquisitions where the leaseholder requests an equity loan. It would also arguably fail to apply flexibility in order to deliver on the aims of the BFRPP and ERRPP, as required by those policies.

To begin Compulsory Purchase Order proceedings

- 5.2. This option was discounted as the Council wishes to seek to acquire the properties by mutual agreement before exploring this option.

To pay full market value to a resident leaseholder who also seeks the grant of a social tenancy

- 5.3. This option was discounted as it would be inequitable to the leaseholders who have accepted the Council's financial offer for the Council to offer to other leaseholders the same financial offer and in addition a secure council tenancy. It would also have a much more significant impact on the Council's finances and its ability to meet housing need, than the other offers.

6. Background

- 6.1. Structural tests on Broadwater Farm in 2017 and 2018 identified a range of structural issues with the blocks on the estate. In November 2018, following resident consultation, Cabinet agreed to demolish two blocks, Tangmere and Northolt, once residents had been rehoused.
- 6.2. The risks in Tangmere and Northolt are substantial but are currently mitigated by the provision of 24-hour security for both blocks and the decommissioning and securing of flats once they are vacant.
- 6.3. Architects were appointed in December 2019 to bring forward designs for new homes on the estate. They are currently undertaking preparatory work ahead of engagement with residents on their initial proposals.
- 6.4. The development of new homes is one of several substantial projects on the estate that have been drawn together under one programme. Other projects include the installation of a new District Heating System, upgrading of kitchens and bathrooms and several socio-economic programmes to support residents around employment, training and mental health.
- 6.5. To date all secure tenants have moved out of Tangmere and all but eight secure tenants have either moved, or agreed to move, from Northolt. A total of 17 leasehold interests have been acquired with a further 13 flats in Northolt and eight flats in Tangmere still to acquire. Of these 21 outstanding leasehold interests, agreement has been reached with a further seven leaseholders. Should the Council fail to acquire these by private treaty the Council will have to consider using its compulsory purchase powers.
- 6.6. The terms under which residents are rehoused is set out in the Broadwater Farm Rehousing and Payments Policy (BFRPP), adopted by Cabinet at its November 2018 meeting. This policy is a local offer and is derived from the Council's Estate Renewal Rehousing and Payments Policy (ERRPP).
- 6.7. The offer includes a commitment to pay the statutory requirement for properties being purchased, that is full market value, plus 10% Home Loss compensation and all reasonable disturbance costs.
- 6.8. When acquiring properties in advance of a possible Compulsory Purchase Order, the Guidance on Compulsory Purchase 2019 sets out the following:
- 6.9. *"When offering financial compensation for land in advance of a compulsory purchase order, public sector organisations should, as is the norm, consider value for money in terms of the Exchequer as a whole in order to avoid any repercussive cost impacts or pressures on both the scheme in question and other publicly-funded schemes.*
- 6.10. *Acquiring authorities can consider all of the costs involved in the compulsory purchase process when assessing the appropriate payments for purchase of land in advance of compulsory purchase. For instance, the early acquisition may avoid some of the following costs being incurred:*

- *legal fees (both for the order making process as a whole and for dealing with individual objectors within a wider order, including compensation claims*
 - *wider compulsory purchase order process costs (for example, staff resources)*
 - *the overall cost of project delay (for example, caused by delay in gaining entry to the land)*
 - *any other reasonable linked costs (for example, potential for objectors to create further costs through satellite litigation on planning permissions and other orders)*
- 6.11. *In order to reach early settlements, public sector organisations should make reasonable initial offers, and be prepared to engage constructively with claimants about relocation issues and mitigation and accommodation works where relevant.”*
- 6.12. The BFRPP offer also includes the offer of an equity loan. The purpose of the loan is to help leaseholders make onward purchases by providing them with additional finance, which is only repayable upon the subsequent sale of the property or the death of the leaseholder. The equity loan was introduced as the Council recognises that the value of flats in some estates is exceptionally low and it may not be possible to buy another property in the area with the sales proceeds.
- 6.13. But Cabinet did not, in the report that agreed the BFRPP, agree to delegate to Officers the authority to actually make the shared equity offers. This is now delegated in recommendation 3.1.2 of this report.
- 6.14. The policy states that equity loans should only be used for the purchase of properties within the borough. This is because the aim of the policy is to give leaseholders who wish to remain in the borough sufficient capital to make an onward purchase.
- 6.15. In exceptional circumstances, and as assessed and agreed by the Discretionary Panel, there may be situations where it may not be appropriate to apply this local restriction in order to ensure the principles and aims of the policy are delivered. This report recommends that authority to make out of borough offers of equity loans, taking into account the recommendation of the Discretionary Panel, be delegated to officers in recommendation 3.1.3 of this report.
- 6.16. Although not explicitly included in the BFRPP, the borough wide policy (the ERRPP) offers to: *“sympathetically review the options available to each leaseholder ... [which] may include alternative financing, smaller properties, or a rental offer on the estate renewal scheme”*. This can then include the offer of a social rented tenancy, where that is reasonable and is the most appropriate offer.
- 6.17. The Discretionary Panel also has the power to make this form of non-standard offer to residents. The policy does not however set out explicitly the type of rental offer or any implications this has on the value offered for the leaseholder’s current home, leaving this to the Discretionary Panel.
- 6.18. Research on other London boroughs’ offers reveals that most only offer a rental offer of a private sector tenancy, with full market value paid. However, where a

social tenancy is offered, there are deductions in payments made, but no standard methodology has been adopted for calculating this reduction.

- 6.19. It is proposed that in exceptional circumstances, and as requested by the leaseholder concerned and agreed by the Discretionary Panel, leaseholders can be offered the additional option of a social tenancy, but with a reduced payment for their property. This payment would be based on the 'Existing Use Value as Social Housing'. The leaseholder would still receive Home Loss payments based on the full market value of their home and Disturbance Payments would become payable when they subsequently move from the home.
- 6.20. The 'Existing Use Value as Social Housing' valuation is based on the HMT "Stock Valuation for Resource Accounting" guidance, which is used when one social landlord purchases a tenanted social rent property from another social landlord. In effect it is where a social landlord's stock is increased by one home, but its number of tenants is simultaneously increased by one tenant, which is analogous to the outcome for the Council in this situation.
- 6.21. Therefore, it is proposed that the standard offer is at 25% of the market value of the home, as set out in the HMT guidance. It is noted that this percentage is already used, on the same rationale, by other boroughs (eg Camden) where a leaseholder is selling their leasehold back and being offered a secure social rented tenancy.
- 6.22. In some cases, this valuation may be lower than the price the leaseholder paid for the property, which may cause difficulties for those who bought under the Right to Buy. As a safeguard, it is therefore also proposed that for former Haringey tenants who bought under the Right to Buy, the offer will be the higher of 25% of current market price or the price the leaseholder originally paid for their property. This would be updated to current market valuations by the highest of either the Consumer Price Index or the Nationwide London House Price index. For these leaseholders, who bought their property under the Right to Buy, this price will be based on the price they actually paid the Council for the property, after any discount they received. This safeguard will also be available to partners who inherited their property from a former Haringey tenant who bought under the Right to Buy.
- 6.23. It should be noted that all acquisitions must be approved and recommended by the Council's Strategic Property Unit.

7. Contribution to strategic outcomes

- 7.1. This recommendations in this report will support Objective 4 of the Haringey Housing Strategy 2017-2022 which identifies that a key priority is to "Provide stable, safe well-managed homes in decent environments". Ensuring that all residents live in safe homes is essential to delivering this priority.
- 7.2. Ensuring that residents of Tangmere and Northolt can move quickly supports the 2019-2023 Borough Plan, which has as its first priority 'A safe, stable and affordable home for everyone, whatever their circumstances'. Outcome 3 of the housing priority is 'We will work together to drive up the quality of housing for everyone', with the specific objective of ensuring safety and improving conditions in housing of all tenures across the borough.

8. Statutory Officer Comments

Finance

- 8.1. There are 14 leasehold properties in Northolt and Tangmere blocks where agreement is to be reached for acquisition for several reasons such as awaiting independent valuation, on-going price negotiations, Equity loan request, and social tenancy request.
- 8.2. This report makes various recommendations to facilitate the acquisition of these units and rehousing of these leaseholders in order to progress the demolition and rebuild works at Broadwater Farm (BWF).
- 8.3. The current HRA financial plan made provision for the cost of acquiring these units and these are contained in the BWF capital budget 2020/21.
- 8.4. Further finance comments are contained in the exempt part of the report.

Legal

- 8.5. The Cabinet has made a decision to demolish the two blocks once they are vacant and a number of leasehold properties have been acquired using the delegated authority contained within the Constitution.
- 8.6. The Council has the power under section 17 of the Housing Act 1985 to acquire properties for housing purposes and under section 120 of the Local Government Act 1985 the Council may also acquire properties for any purpose authorised by that Act or any other act (including for housing purposes).
- 8.7. Section 12 of the Local Government Act 2003 provides that the Council may invest for any purpose relevant to its functions under any enactment and Section 1 of the Localism Act 2011 gives the Council power to do anything that individuals generally may do. Therefore the Council can provide the equitable loans as envisaged under the BFRPP, subject to the terms and conditions being agreed.
- 8.8. In making offers of secure tenancies the Council is generally required to follow the terms of its Allocations Policy. It is however entitled to make a small number of offers outside the Allocations Policy. Further the Council's Allocations Policy allows for Band A priority to be given where it is in the Council's overriding interests to prioritise an allocation to a particular household, and recognises that it cannot cover every eventuality and gives power to the Decision Panel to approve offers of housing out with the policy. It is therefore open to the Council to offer a secure tenancy to the resident leaseholders who have requested one.
- 8.9. It is lawful for the Council, where seeking to acquire interests by private treaty, to pay less than the open market value where it at the same time agrees to grant a social tenancy to the owner of the interest it is acquiring.

Procurement

- 8.10. Not applicable

Equalities

- 8.1. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share those protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not.
- 8.2. The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.
- 8.3. The proposed decisions are to agree to the acquisition of all leaseholders' interests in both Northolt and Tangmere blocks on Broadwater Farm estate, give delegated authority to approve individual equity loans to eligible resident leaseholders, and to give delegated authority to approve the offer of a social tenancy to leaseholders. The objective of these decisions is to facilitate the demolition of Northolt and Tangmere blocks, in line with the previous Cabinet decision, due to structural issues.
- 8.4. The people affected by the decision are the remaining leaseholders in the two blocks. While it is not possible to analyse the demographic profile of these individuals, it is possible to infer from the Equality Impact Assessment that accompanied the November 2018 Cabinet decision (accessible here: <https://www.minutes.haringey.gov.uk/documents/s104901/Appendix%204%20BWF%20EQIA.pdf>) that people with disabilities, older people, and people from BAME communities are likely to be overrepresented among those affected. In the implementation of this decision the Council will be obliged to have due regard for the needs of these individuals that derive from their sharing of any of the protected characteristics.
- 8.5. As noted in the Equality Impact Assessment for the November 2018 Cabinet decision, the most significant possible negative impact that could affect leaseholders with protected characteristics is disruption to local support networks. However, the offer of a social tenancy is a notable mitigation of this potential impact. It is not envisaged that the proposed decision will result in any discrimination, harassment, or victimisation contrary to the Equality Act 2010.

9. Use of appendices

List them here

10. Local Government (Access to Information) Act 1985

Agenda, reports and minutes of Cabinet meeting 13 November 2018

<https://www.minutes.haringey.gov.uk/ieListDocuments.aspx?CId=118&MId=8731&Ver=4>

Broadwater Farm Rehousing and Payments Policy

<https://www.haringey.gov.uk/housing/housing-strategies-policies-and-plans/broadwater-farm-rehousing-and-payments-policy>

Estate Renewal Rehousing and Payments Policy

http://www.haringey.gov.uk/sites/haringeygovuk/files/estate_renewal_rehousing_and_payments_policy_2017.pdf