

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 22 January 2019	<b>Meeting Name:</b> Cabinet Member for Housing and Modernisation
<b>Report title:</b>		Tustin Estate Tower Blocks – Payment Options for Major Works Service Charges	
<b>Ward(s) or groups affected:</b>		Old Kent Road	
<b>From:</b>		Strategic Director of Housing and Modernisation	

### **RECOMMENDATION(S)**

1. That the Cabinet Member for Housing notes the contents of this report and approves the application of the 2013 general buy back policy to non resident leaseholders at the Tustin Estate.

### **BACKGROUND INFORMATION**

2. There are initial plans being led by Regeneration for the overall development of Tustin Estate which could involve large scale demolition of the majority of the estate, to be replaced by higher density housing
3. The decision was made some years ago to proceed with the refurbishment of the three tower blocks on Tustin Estate in advance of any anticipated regeneration of the estate. It was felt at the time that because of the number of properties on the relatively small site, densities could not be increased drastically. A detailed options appraisal assessed the cost of demolition and rebuilding to be twice that of refurbishment and, with the need to decant 217 dwellings and potentially buy out 22 leaseholders, it would not be a cost effective option to demolish the existing blocks.
4. The works required are very extensive to the blocks including new windows, roofs, external works, new kitchens and bathrooms and rewiring. These works would be carried out by Engie under the current partnering arrangements.
5. Section 20 Notices are due to be served on leaseholders detailing the estimated service charges.
6. The service charges for this work are very substantial. There are 22 leaseholders in the three blocks. 6 leaseholders will be billed £151K, 8 leaseholders will be billed £148K, 6 leaseholders will be billed between £123K and £127K. Two leaseholders are limited in their contribution because they are in the first five years of their lease. Their contributions are £13K and £15K. Only seven leaseholders are recorded as living at their address. The rest of the leaseholders have correspondence addresses recorded with the council. The resident leaseholders include the two with limited service charge liabilities.

7. Notices have been prepared under S20 of the Landlord and Tenant Act 1985 (as amended) and it is proposed to serve on leaseholders in January 2019. Under the terms of the leases, leaseholders can begin to make payments for costs incurred on the contract from April 2019, however invoices will not be sent requiring payment until February 2020 for payment from April 2020.
8. Notices have also been served in respect of water mains renewals to the blocks. This work was urgently required and could not wait until the costings for the external work were finalised. The charges are around £6K for 20 of the leaseholders. Those who are limited in their liability are limited to zero for this work. The invoicing of this work will be delayed to coincide with the invoicing of the external work in February 2020.
9. There are arrangements already in place for interest free payment terms for resident leaseholders of 72 months for uncapped charges, and up to 48 months for those charges that are limited. There are also policies in place for other payment options including loans, voluntary charges, equity shares and equity loans.
10. Because of the high cost of the work and the relatively low value of the properties these schemes are not likely to be attractive to leaseholders, and buy back options have therefore been considered. If this option was taken up by leaseholders, they would be able to realise the full value of their property without any reduction in respect of these service charges.

## **KEY ISSUES FOR CONSIDERATION**

### **Buy Backs**

11. There is a current policy for buy backs for both resident and non resident leaseholders contained in the Home Owner Improvement Plan approved by Cabinet on 22<sup>nd</sup> October 2013. This was separate from the policies put in place in connection with major regeneration schemes such as the Heygate and Aylesbury Estates, and was intended as a general policy to assist leaseholders facing financial hardship.

12. Cabinet approved the implementation of a buy back scheme:

*The cabinet agrees to the implementation of a buy back scheme, prioritizing homeowners in danger of losing their homes because of financial hardship but also taking into account the other considerations listed in paragraph 104. The scheme is to be open to all resident leaseholders (with the exception set out in paragraph 106), not just those who originally exercised their Right to Buy.*

13. Paragraph 104 of that report sets out the considerations as follows:

*In terms of eligibility and prioritisation, no changes to the terms laid out in the original buy back policy are proposed. The proposed scheme will be administered by the Home Ownership Unit in the Specialist Housing Services*

*Division whose staff will identify leaseholders who are facing financial difficulty and place them on a waiting list for repurchase. Priority will be given to leaseholders in immediate danger of losing their homes but the following factors will also be taken into account in assessing relevant priority:*

- *age*
- *disability*
- *total debt*
- *income of household, including an assessment of outgoings*
- *future service charge liabilities*
- *whether or not the leaseholders were put on notice of service charge liability when they purchased*
- *suitability of current accommodation (overcrowding or under-occupation)*
- *need for sheltered accommodation or social services care accommodation*
- *length of time on the repurchase waiting list*
- *mortgageability of property (value)*
- *whether or not the leaseholder is in occupation*
- *benefit to the Council (purchase price, size of accommodation etc).*

14. Paragraph 106 of that report set out the exceptions as follows:

*Any current owner occupier can remain in the property after repurchase as a secure tenant. The parameters set out above mean the scheme will only be available to non resident owners in exceptional circumstances, for example an elderly leaseholder in care. In these circumstances additional criteria will have to be taken into consideration such as whether or not vacant possession of the premises can be obtained and whether social services have put a charge on the property in respect of their residential care costs.*

15. Cabinet resolved as follows:

12. *That the repurchase price in cases where the homeowner remains in occupation be set at 40% of the vacant possession value for the reasons explained in paragraph 107 (which considered factors in the local market affecting the likely take up of a scheme).*
13. *That, in the exceptional cases where vacant possession is gained, the purchase price should not exceed open market value.*
14. *That the scheme does not extend to repurchasing on a shared equity basis.*

16. As to resolution 13, it is proposed that the council would pay 100% of the open market value in each case, to be determined by independent valuers.
17. It is clear that the level of service charges at this estate has the potential to cause financial hardship for homeowners on the estate. When the policy was approved it was considered likely that, in most cases, only resident leaseholders would satisfy the priority criteria in paragraph 104. However, those criteria specifically included the impact of future service charge liabilities, and the value of the property. In addition paragraph 106 states that, when non resident owners are being considered, the council can take into account additional criteria such as whether vacant possession can be obtained. Overall it is considered that the exceptional level of charges associated with the two contracts at Tustin estate allow for the current buy back policy to be applied to non resident leaseholders on the estate on terms that vacant possession is obtained.

### **Capping of charges**

18. The council has discretion under the Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014 which allows social landlords to cap charges where it is reasonable to do so, having regard to the following:
  - any estimate of the costs of the works notified to the lessee before the purchase of the lease of the dwelling;
  - whether the purchase price paid took account of the costs of the works
  - any benefit which the lessee has received or will receive as a result of the works, including an increase in the value of the lease, an increase in the energy efficiency of the dwelling, an improvement in the security of the dwelling and an improvement in services or facilities
  - whether the lessee would suffer exceptional hardship in paying the service charge, and
  - any other circumstance of the lessee which the social landlord considers relevant.
19. With regard to exceptional hardship landlords are directed to have regard for the following:
  - whether the dwelling is the lessee's only or principal home
  - the total amount of the service charges payable by the lessee since the purchase of the lease of the dwelling
  - the amount of the service charge payable in the year in which the lessee applies for the reduction because of exceptional hardship
  - the financial resources available to the lessee
  - the ability of the lessee to raise funds to pay the service charge
  - the ability of the lessee to pay the service charge if the landlord extended the period for payment
  - any other relevant consideration

20. Capping is not considered to be appropriate in these circumstances because the council is able to offer very extensive solutions to leaseholders, including buying back the property at its full market value and the offer of a secure tenancy to resident leaseholders.

### **Policy implications**

21. The arrangements proposed for buy backs are considered to be within current policy. The decision on buy backs for non resident leaseholders falls within the exceptions allowed for within the policy and is not a key decision.

### **Community impact statement**

22. The offer to buy back is a response to the risk assessment carried out on this project which identified affordability to leaseholders as a major risk. Although the council offers a wide range of payment options for leaseholders, the high cost of the work and the relative value of the properties means that these options may not be affordable or viable for most leaseholders.
23. The offer seeks to use existing policy to ensure that there are viable options for leaseholders which ensure that those leaseholders wishing to stay in their properties are able to do so on secure tenancies, while those who do not live there are able to realise the value of their properties without the impact of the service charge demand.
24. There are currently no other leaseholders who have requested that the council repurchase their properties under the 2013 policy, so it is not envisaged that this proposal would negatively impact other homeowners in the borough.

### **Equalities impact assessment**

25. Having regard to the council's duties under the Equality Act 2010, the proposal is not considered to have any particular relevance to the council's duties. The leaseholders affected have no shared protective characteristic that distinguishes them from other leaseholders or other residents of the borough.
26. The proposal to assist leaseholders with very high service charge payments by offering buy backs is limited to the twenty leaseholders affected by the exceptional level of charges associated with the two contracts at Tustin estate. It does not impact negatively on those leaseholders. 30% of the funding of the proposed buy backs is from existing Right to Buy receipts and there are no other leaseholders in similar exceptional circumstances. The proposal is not considered to have a substantial negative impact on other leaseholders or residents of the borough.

## Resource implications

27. The council's buy back policy, as set out in the Homeowner Improvement Plan referred to above, delegates the approval of purchases to the Strategic Director of Housing & Community Services.
28. The implementation of the buy backs, and of any shared ownership or equity loans that some leaseholders may find appropriate, is the responsibility of the Strategic Director of Housing and Modernisation through the Sales and Acquisitions Manager in MySouthwark Homeowners, and is resourced through acquisitions and specialist home purchase officers.

## Financial implications

29. There are 6 one bedroom properties in leasehold ownership and 16 two bedroom properties. The two properties where the charges are limited to £12K and £15K are not likely to take up an offer to buy back the property because they benefit so greatly from the capped costs. They are both two bedroom properties. The potential take up is therefore 6 one bedroom properties and fourteen two bedroom properties.
30. The Head of Property and Wellbeing, and his colleagues, have considered the value of the properties. They were guided by some valuation work commissioned independently on a 1 bedroom flat and reported in mid-2017, moderating the advice received to reflect a) the charges being higher than envisaged at that time and b) gently deteriorating market conditions. Allowing for the prospect of service charges at the levels currently estimated they would anticipate the following values:

Studio	£ 70,000
1 Bed	£ 90,000
2 Bed	£120,000
3 Bed	£150,000

If the take up is 100% of those envisaged the cost would be

6 X £90,000	£ 540,000
14 X £120,000	£1,680,000

Total	£ 2,220,000
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31. The repurchase of leasehold properties would be classified as capital expenditure and would form part of the Housing Investment Programme. Once refurbished, the properties will provide additional council homes for social rent. Under existing regulations, 30% of the expenditure incurred in repurchasing the properties can be met from retained Right to Buy receipts, with the remainder met from other HRA capital resources (except for S106 receipts), which may include borrowing.

### **Consultation**

32. There has been extensive consultation, outside of the statutory leasehold process, with all residents. The extent of the work and the magnitude of the service charge has been discussed with leaseholders at a number of meetings on the estate between the Investment Team and leasehold groups. Individual appointments were arranged for resident leaseholders, and a drop in session for non resident leaseholders, on 6th December 2018 to enable leaseholders to discuss the individual impact of the expected charges in advance of the service of Section 20 Notices, and for officers to gauge the appropriateness of the payment schemes available, however only one leaseholder attended.
33. Statutory consultation under S20 of the Landlord and Tenant Act 1985 (as amended) will commence following this report. The Notices will identify individual service charges, and the payment schemes, shared ownership schemes and buy back offer that is applicable to this scheme. Face to face meetings with leaseholders will take place as part of the statutory observation period.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Director of Law and Democracy**

34. The buy-back policy discussed in this report was approved by Cabinet on 22 October 2013. The relevant provisions are accurately summarised in this report. Having regard to the factors set out in the policy, and that there are no other leaseholders currently on the waiting list, it is reasonable to give equal priority to resident and non-resident owners of homes on the Tustin Estate in this case.
35. Part 3C, paragraph 15 of the Constitution states that Cabinet approval is required for each purchase of property worth more than £100,000, unless it falls within a scheme already approved by members. In this case the authority to approve any purchases agreed with leaseholders has been delegated to the Strategic Director for Housing by the Cabinet decision on 22 October 2013 resolution 16. This is consistent with Part 3O paragraph 1 of the Constitution which states that, in respect of matters not reserved to Council Assembly, Cabinet or a Cabinet Committee, decisions are delegated to the appropriate Chief Officer or head of service.
36. As it is not yet known how many of these offers will be accepted, and each purchase would fall well below the threshold of £500,000, this is not required to be treated as a key decision.
37. The report accurately summarises the Social Landlords Discretionary Reduction of Service Charges (England) Directions 2014, made by the Secretary of State pursuant to sections 219 and 220 of the Housing Act 1996.



**Strategic Director of Finance and Governance (H&M18/091)**

38. The report recommends the application of the 2013 general buy back policy to non resident leaseholders on the Tustin Estate. This will enable all 22 leasehold properties to be repurchased if necessary to facilitate the refurbishment works planned for the three tower blocks on the estate. It will also provide additional homes for social rent once the works are completed.
39. The cost of repurchasing the leasehold properties, which may be in the region of £2.2m depending on the level of take-up of the offer, can be met from the Housing Investment Programme and is likely to be funded from Right to Buy receipts, and other capital resources, including borrowing as appropriate.

**BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
Home Owner Improvement Plan	160 Tooley St	Fiona Buist Tel: 020 7525 7924

**APPENDICES**

No.	Title
Appendix 1	Home Owner Improvement Plan

**AUDIT TRAIL**

<b>Lead Officer</b>	Louise Turff, Homeownership Services Manager	
<b>Report Author</b>	Carla Blair, Service Charge Construction Manager	
<b>Version</b>	Final	
<b>Dated</b>	22 January 2019	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		22 January 2019