

<b>Item No.</b> 7.	<b>Classification:</b> Open	<b>Date:</b> June 19 2008	<b>Meeting Name:</b> Major Projects Board
<b>Report title:</b>		Aylesbury Phase 1a – Approval for Disposal of Land	
<b>Ward(s) or groups affected:</b>		Faraday ward Aylesbury NDC area	
<b>From:</b>		Strategic Director of Major Projects	

## RECOMMENDATION(S)

1. That the major projects board approve the disposal of the land, shown edged on the plan at Appendix 1, (Phase 1a) to London & Quadrant Housing Association (L&Q) by way of a lease at a premium (details of which are in the closed report) subject to:
  - Council assembly’s approval of an application to the Secretary of State for the Department of Communities and Local Government (“DCLG”) for consent to the transfer of housing land and
  - The council obtaining the consent of the DCLG to the disposal.
2. That the major projects board recommends that council assembly approve an application to the DCLG for consent to the transfer of housing land.

## BACKGROUND INFORMATION

3. On January 28 2008 the strategic director for major projects approved the entry into a formal agreement with L&Q for the development on council land within the Aylesbury estate known as Phase 1a.

## KEY ISSUES FOR CONSIDERATION

### Project Context

4. The project involves a combination of a land disposal through the issuing of a 130 year lease to L&Q for the provision of housing and the construction of the new Aylesbury Resource Centre (ARC). The housing element consists of 260 units which are made up of 141 housing for sale units (54%), 29 intermediate (shared ownership) units (11%) and 90 socially rented units (35%). The scheme also involves high levels of environmental sustainability. The development will represent an exemplar for the remaining regeneration programme and will facilitate the creation of re-housing capacity for Aylesbury residents. The council has 100% nomination rights for the social rented units which will provide the necessary impetus to commence the regeneration of the Aylesbury Estate.
5. The commencement of the Phase 1a development signals the long awaited physical transformation of the Aylesbury Estate, consequently providing residents with confidence in the council’s proposals. It will start to change the perception of the area and increase the anticipation of the wider regeneration programme and consequently increase interest and confidence within the development market.

6. Regeneration of this first phase of the Aylesbury estate will help to catalyse future phases. Improvements to the locality and appropriate management should eventually lead to increased economic activity and greater demand from occupiers and developers. This is likely to contribute to improved land and property values in the long term.
7. Phase 1a will provide 4 show homes that will give residents an opportunity to visualise their new homes and the options of choice available to them. The show homes will be completed and fitted out and be available for inspection for a period of at least 2 months. It is anticipated that this will provide a tangible example of the quality of the homes that the council aspires to achieve for existing and new residents. The new homes will set benchmark standards to prospective development partners.

### **Key Features of Phase 1a**

8. Aylesbury is one of the most well known and deprived housing estates in London displaying many of the problems associated with inner city urban living. Previous initiatives have failed to deliver change for Aylesbury residents: Phase 1a represents the first steps in meeting this challenge. This land disposal forms part of the wider procurement process which has been carried out under EU procurement regulations. Entry into contract with L&Q has been approved (see paragraph 3), with conditional approval of the land disposal. That contract will deliver a wide range of social, economic and environmental benefits to the residents of the Aylesbury, as set out in the report to the strategic director for major projects. Those wider benefits are very much part of the context in which this disposal sits, and those benefits together with the benefits set out in this report form the full delivery of the project. This report concentrates on the costable elements of the proposals in relation to land issues.
9. Phase 1a is the first scheme of Aylesbury's regeneration programme. It has been developed in collaboration with residents and day centre users to ensure excellence in design quality and in future management of homes and the social care facility.
10. Phase 1a has been designed to provide a new safe distinctive and sustainable neighbourhood for a mixed tenure community. It is characterised by high standards of design, setting a benchmark for future development of the existing estate. The new layout provides residents with a familiar and convenient street pattern, reintroducing the historic street pattern of the area, whilst preventing through-traffic from short-cutting the busy junction of the Albany Road and Camberwell Road.
11. The ARC will provide a modern facility to meet the health & social care department's approach to support people with physical, neurological and sensory disabilities. It will bring together people from diverse social and cultural backgrounds. This will replace the existing under used and outdated 1960's Aylesbury Day Centre. The ARC will help users to lead more independent and full lives and include an outreach facility ensuring that the service is more inclusive.
12. In addition to the new housing and the ARC, there will be a new public square adjacent to the ARC, newly upgraded retail units to replace those currently located along Westmoreland Road, a new north/south green route along the eastern edge of the site creating better connections between Burgess Park and the community to the north and a new neighbourhood play area.
13. In response to residents' consultation, the proposed affordable housing will reflect the generous space standards of the existing estate and incorporate other standards including the Lifetimes Homes standard. In addition to this, 10% of all dwellings will be designed to wheelchair standards or be designed to allow future adaptation for

wheelchair use, with all buildings designed in accordance with current secure by design guidelines. Family homes will be located at low levels around the new neighbourhood square and the layout has been designed to maximise daylight and sunlight. Phase 1a will provide 46% affordable housing as opposed to 35% which is a minimum requirement of the UDP. The affordable housing will consist of 35% socially rented and 11% low cost shared ownership properties.

14. New residents of the affordable housing will benefit from tenancy conditions that will be a minimum of the council's existing tenancy conditions. The right to acquire will apply to all new tenancies.
15. The residential part of this scheme has been designed to achieve level 4 of the Code for Sustainable Homes which represents new challenging environmental standards. In terms of CO<sub>2</sub> this means that dwellings will require a 44% reduction in CO<sub>2</sub> emissions on the current Part L of the building regulations and at the same time surpass the council's planning policy of 10% CO<sub>2</sub> emissions reduction using on-site renewable technologies. The arrangements for ensuring compliance are a contractual requirement.
16. In addition to the land receipt L&Q are offering an 'added value' contribution (details of which are in the closed version of this report) towards the social infrastructure of the Aylesbury Estate in particular to employment and training. The proposed scheme also offers significant added value in terms of design standards, environmental efficiency, public realm, affordable housing and size of units when compared with a hypothetical scheme that might be delivered through conventional land transaction. It is these added benefits that are considered alongside the capital receipt and contractual arrangements will be put in place to ensure delivery.

### **The Tendering Process**

17. The market was tested through an OJEU procurement process using the competitive dialogue procurement route: proposals were invited from six bidders. Dialogue between the council and bidders ensured that tender documents were subsequently produced to reflect the council's detailed requirements.
18. Of the six bidders were invited to submit tenders, with two tenderers not returning a tender submission. Under the European Directive, Public Contracts Regulations 2006, the council is not permitted to accept tenders which are at variance with the Council's requirements, nor is the council permitted to enter into negotiations with tenderers.
19. Of the four tender returns, three did not meet the council's requirements and were therefore non compliant. All the non-compliant tenderers were given an opportunity to submit a compliant submission but decided not to take up this request. L&Q confirmed that they would accept the document as drafted.
20. L&Q offered a compliant capital consideration (details of which are in the closed report). Although there was one higher tender submission (details of which are in the closed report), this was not compliant with the tender requirements and therefore the council were not permitted to accept it. L&Q's submission included a value added commitment (details of which are in the closed report) to be invested into Aylesbury's social infrastructure, for example contributing towards training and employment opportunities for local residents. This was unique amongst all the tender submissions.
21. In order that the council could be confident in its decision to appoint L&Q, a comparative exercise was done with all the tender submissions in connection with the quality criteria associated with the tender submission. The outcome of this was that L&Q were the only

tenderers to exceed the threshold evaluation criteria and remaining tenderers were unable to meet the council's minimum requirements. L&Q's tender submission in both financial and qualitative terms represented the most attractive available based on the marketing undertaken.

### **Valuation of Phase 1a**

22. The council has obtained an independent valuation undertaken by Drivers Jonas who carried out an appraisal of the unrestricted value of Phase 1a based on meeting the minimum requirements of the UDP. The valuation assumed that the council would separately procure a community facility where the requirements would not be as prescriptive as set out in the L&Q scheme and that this would be subject to planning consent. This valuation estimates an open market value of the site (details of which are in the closed report). The valuation also showed a value (details of which are in the closed report) if a S106 contribution (details of which are in the closed report) was required of a developer, as the council could expect the developer to deduct these costs from the land value when calculating their offer. This report also commented upon the current instability of the property market and that the local market in Walworth, Camberwell, and Elephant & Castle has been affected by this national phenomenon.
23. The proposed receipt from L&Q (details of which are in the closed report) is less than open market value, therefore the consent of the Secretary of State for the DCLG is needed in accordance with Section 32 of the Housing Act 1985. A number of general consents have been issued by the DCLG pursuant to the 1985 Act to enable local authorities to dispose of land without the need to obtain the consent of the DCLG. A number of these consents are issued subject to the local authority being able to meet several conditions on or before disposal. Officers have investigated the possibility of disposal of Phase 1a under two general consents but as the conditions could not be fully met, permission must be sought from the DCLG.
24. The council appointed BPTW Quantity Surveyors to quantify the costs of Phase 1a with a scheme that would only meet the minimum requirements of the Unitary Development Plan. The exercise demonstrated that the cost of the Phase 1a scheme to the developer exceeded that of a scheme that met the minimum requirements of the UDP (details of which are in the closed report). This is compared to an estimated S106 contribution (details of which are in the closed report) which would be expected from the developer for the UDP compliant scheme.
25. L&Q are also to contribute (a sum detailed in the closed report) of added value to the Aylesbury estate's social infrastructure. The additional costs items may be summarised as follows;
  - Higher standards of design; including dual aspect dwellings, higher quality design of building elements and materials, gas-fired district heating installation.
  - Higher ARC specification; L&Q will commit to build the ARC specification; L&Q will commit to build the ARC to a better standard of finish and fitting than would be envisaged in normal cost estimates for such a building.
  - Increased space standards; these on average result in two bedroom units upto 15% larger and three bedroom properties around 25% larger than the minimum UPD requirements/ For socially rented properties these carry a build cost premium without a proportionate rental benefit.
  - Difference between 35% and 46% affordable housing; construction cost allowed for above;
  - Level 4 of Code for Sustainable Homes; additional costs in building the development to a higher than required standard of carbon emissions reductions.

26. The procurement exercise and L&Q proposal were based on the draft Area Action Plan (AAP) with design consultancy through Levitt Bernstein Associates and Urban Initiatives. This was subject to extensive consultation with local residents and other stakeholders. Formal adoption of the AAP is expected later in 2008 subject to an Inspector's report and a public local inquiry.

### **Policy implications**

27. The regeneration of the Aylesbury Estate supports the council's corporate plan by creating a better place for people through localities of mixed communities and improving life chances through the opening of the ARC through high quality mixed tenure housing.
28. The strategic director of regeneration and neighbourhoods formally declared Phase 1a surplus to requirements on December 11 2007.

### **Community Impact Statement**

29. The impact on the community has been considered in previous reports relating to the Aylesbury regeneration programme. The decisions in this report serve to enable the first stage of the development to progress and therefore no additional community impact issues arise as a result of these decisions.

### **Resource implications**

30. This decision has no significant resource implications as the delivery of the project will take place within existing staffing arrangements.

### **Consultation**

31. Extensive consultation has taken place in relation to the Aylesbury Phase 1a development and is detailed in earlier reports. The decisions in this report serve to enable the first stage of this development to progress and therefore no additional consultation issues arise as a result of these decisions

### **Financial Implications**

32. The table below shows that the difference between the open market value of the site for Phase 1a less the additional cost of the Phase 1a scheme compared to the minimum UDP requirements. (The financial details are in the closed report).
33. The cost of construction of the ARC (details of which are in the closed report) is to be funded from the Health and social care department's allocation in the Council's capital programme.
34. The director of finance's concurrent is detailed in paragraph 41 to 46.

### **Legal Implications**

35. These are set out in paragraphs 35-40 below.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director for Legal and Democratic Services**

36. The major projects board is recommended to approve the disposal of Phase 1a which is land that is held for housing purposes. The disposal of housing land can only proceed in accordance with Section 32 of the Housing Act 1985 for which purposes the consent of the DCLG is required as noted in paragraph 22 of this report. A number of general consents have been issued by the DCLG pursuant to the 1985 Act to enable local authorities to dispose of land without the need to obtain the consent of the DCLG. It is noted at paragraph 22 of this report that two of these general consents have been explored by officers but in respect of the proposed disposal of Phase 1a the council are not able to fully satisfy these conditions and therefore the council cannot rely upon the same and the consent of the DCLG is required.
37. The approval of an application by the council to the DCLG to transfer housing land is a matter reserved to council assembly under Part 3A – Paragraph 15 of the council's constitution.
38. The director of regeneration and neighbourhoods must formally declare land surplus to housing requirements prior to any disposal of such land. This has been confirmed in paragraph 27 of this report in relation to Phase 1a.
39. Section 105 of the 1985 Act requires the council to consult with secure tenants who are likely to be substantially affected by a matter of housing management (one of the definitions of "a matter of housing management" in the 1985 Act is "the management, maintenance, improvement or demolition of dwelling houses let by the council under secure tenancies") to enable those secure tenants to be informed of the council's proposals in respect of the matter and to make their views known to the council within a specified period, and the council shall, before making any decision on the matter in question, consider any representations made to it in accordance with those arrangements. It is noted at paragraph 30 of this report that extensive consultation with residents has been carried out and at paragraph 28 of this report that the impact on the community has been considered in previous reports.
40. The major projects board may approve the recommendation to dispose of Phase 1a subject to:
  - Approval by council assembly of the application for consent to the DCLG for the transfer of Phase 1a and;
  - Obtaining the consent of the DCLG to the disposal of Phase 1a.
41. As the consent of the DCLG is required to dispose of Phase 1a the major projects board may resolve that council assembly approve an application to the DCLG for consent to the transfer of Phase 1a.

### **Finance Director**

42. The finance director notes that this report is intended to explain the implied gap between open market value and the net capital receipts being obtained on disposal of the site, in order to obtain Secretary of State approval to transfer the land to L&Q. It is noted that the proposed development for the site will provide better design standards, environmental efficiency and high quality public realm spaces.
43. He notes that the difference between the open market valuation and net capital receipts

can be explained by the increased costs of Phase 1a to that of a scheme that met the minimum requirements of the UDP (details of which are in the closed report). He further notes that these values have been provided by BPTW Quantity Surveyors, who are the council's contracted expert advisors.

44. It is noted that based on the open market valuation, provided by Commercial Property Consultants Drivers Jonas (details of which are in the closed report), the sale to L&Q (details of which are in the closed report) represents a sale at an undervalue (details of which are in the closed report). The finance director also notes the current issues of market value as reported by Drivers Jonas as a result of limited credit and falling residential house prices. Their research indicates that the local market in Walworth, Camberwell and Elephant & Castle has been affected by this national phenomenon.
45. The finance director confirms that the funding (details of which are in the closed report) for the construction costs of the Aylesbury Resource Centre has been budgeted for within the current capital programme allocation (details of which are in the closed report) for the scheme. Work is in progress to monitor the required spend on this project and to return any surplus resource to the capital programme.
46. The council has already made separate provision within the existing capital programme to fund the project's capital costs of acquiring residential and commercial leaseholds.
47. The finance director will wish to ensure that the future impact of Phase 1a contracts on values across the Aylesbury site as a whole and future phases be optimised and the revenue impact of any decisions taken are fully assessed and included within the business planning process at appropriate time. Currently there is no provision for increased HRA or General Fund costs arising from this proposal and neither are they expected. The need to achieve annual efficiency savings in line with government targets must also be noted.

### **Head of Procurement**

48. Paragraphs 17 to 21 of this report are an accurate reflection of the procurement process that was followed. All procurement issues were dealt with in detail in the Gateway 2 report which was signed off by the strategic director of major projects following the recommendation from corporate contracts review board.
49. The response from the market was limited and the council found itself in a position where only one submission could be accepted. However, the decision to assess all submissions as far as possible installed confidence in the recommendation for award. It would appear that in any event, the single compliant bid was the preferred submission based on quality assessments carried out by the evaluation panels.

### **Head of Property**

50. A report on the closed agenda recommends disposal of this site for less than best consideration subject to the approval of Council Assembly and a successful application to the Secretary of State. The closed report sets out the additional benefits to be provided through the scheme and the equivalent value of these benefits.
51. The proposed sale to L&Q is detailed in the closed report. In addition L&Q will pay for additional community benefits (details of which are in the closed report). Paragraph 32 confirms the council will fund the construction of the ARC at a fixed cost (details of which are in the closed report).

52. The major projects board need to satisfy themselves that the additional benefits of the transaction (over and above statutory planning requirements within the Southwark Plan) with L&Q outlined in paragraphs 8 to 16 of this report represent value for money when considered in the context of the differential in open market value.

53. **REASONS FOR URGENCY**

The closed version of this report was circulated with 5 clear working days notice before the meeting. The urgency of the open version relates to the need to make the public aware that this report is up for consideration at the major projects board.

54. **REASONS FOR LATENESS**

The open version of this report was circulated late due to procedural issues relating to the production of this open report from the closed report.



## BACKGROUND PAPERS

Background Papers	Held At	Contact
Open reports & Minutes of Executive referred to in report	63-67 Newington Causeway, London SE1 6BD	Prakash Bijwe 020 7525 4813
Contract files and records	63-67 Newington Causeway, London SE1 6BD	Prakash Bijwe 020 7525 4813
Report on Tenderer's Non-Compliance with Instructions for Tenderers	63-67 Newington Causeway, London SE1 6BD	Prakash Bijwe 020 7525 4813
Statement of Community Involvement-Detailed Planning Application for Aylesbury Phase 1a Housing & Aylesbury Resource Centre	63-67 Newington Causeway, London SE1 6BD	Prakash Bijwe 020 7525 4813
Executive Committee Report 'Disposal of Properties for Auction' approved on 12 <sup>th</sup> December 2006	63-67 Newington Causeway, London SE1 6BD	Prakash Bijwe 020 7525 4813
Declaration of Property as Surplus to Requirements approved on 11 <sup>th</sup> December 2007	63-67 Newington Causeway, London SE1 6BD	Prakash Bijwe 020 7525 4813
Acquisition of Leasehold interests on Phase 1a via negotiation of compulsory purchase. Appropriation of Land for Planning Purposes approved on 6 <sup>th</sup> March 2007.	63-67 Newington Causeway, London SE1 6BD	Prakash Bijwe 020 7525 4813
Aylesbury Estate Regeneration Rehousing Policy Update approved on 14 <sup>th</sup> June 2007	63-67 Newington Causeway London SE1 6BD	Prakash Bijwe 020 7525 4813
Outline Planning Application and Approval for Phase 1a (June 2007)	63-67 Newington Causeway, London SE1 6BD	Prakash Bijwe 020 7525 4813
Detailed Planning Application and Approval for Site A of Phase 1a (December 2007)	63-67 Newington Causeway, London SE1 6BD	Prakash Bijwe 020 7525 4813

## APPENDICES

Appendix number	Title of appendix
Appendix 1	Site Plan for Phase 1a

## AUDIT TRAIL

<b>Lead Officer</b>	Martin Smith, Director, Aylesbury Project, Major Projects Directorate.		
<b>Report Author</b>	Prakash Bijwe, Project Manager, Aylesbury Project, Major Projects Directorate.		
<b>Version</b>	Final Open		
<b>Dated</b>	June 9 2008		
<b>Key Decision?</b>	Yes	<b>If yes, date appeared on forward plan</b>	May 2008
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>			
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>	
Strategic Director of Legal & Democratic Services	Yes	Yes	
Finance Director	Yes	Yes	
Head of Procurement	Yes	Yes	
Head of Property	Yes	Yes	
Director of Health and Social Care	No	No	
Executive Member for Regeneration	Yes	No	
<b>Date final report sent to Constitutional Support Services</b>			June 16 2008