

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b> 15 January 2009	<b>MEETING NAME</b> Major Projects Board
<b>Report title:</b>		Aylesbury Regeneration – Purchase of Non Council Owned Residential Properties	
<b>Wards affected:</b>		East Walworth, Faraday Ward and Newington Wards.	
<b>From:</b>		Strategic Director of Major Projects	

## RECOMMENDATIONS

1. The Board recommends to the Council's Executive the purchase of non Council owned residential properties on the Aylesbury Estate subject to:
  - 1.1 The number of purchases being limited to available funding
  - 1.2 Properties acquired being ring fenced where appropriate for Aylesbury tenants in the early phases of the regeneration.
  - 1.3 The Head of Property approving the terms of individual purchases

## BACKGROUND INFORMATION

2. The Regeneration of the Aylesbury Estate is a Council priority and a number of reports progressing this programme have been considered by both this Board and the Council's Executive.
3. The regeneration is a massive undertaking and is to be delivered in a phased approach. The latest phasing plan envisages completing the re-housing of existing residents by 2023; fifteen years hence.
4. Residents comprise secure tenants, owner-occupiers and non occupying owners [mostly leaseholders but a few freeholders of houses]. There are around 490 non Council owned residences on the Estate. The acquisition of such a number of properties is a significant and costly undertaking.
5. A phasing plan has been approved that provides for acquisitions taking place as part of an agreed demolition and re-development programme. Notwithstanding this, feedback from non Council owners indicates there is a significant number that would like to sell now rather than wait until their allocated period in the phasing plan.
6. As part of the partnership agreement for the dissolution of the Aylesbury New Deal for Communities (NDC) capital funding has been made available for non Council owned residential acquisitions on the Estate. This funding is conditional on being spent within a prescribed period. The first tranche of £7 million has to be spent by no later than 31 March 2009. Spent in this context means actually paid out and commitments to pay will not satisfy the condition.
7. This opportunity is welcome news for the project as it provides funding as well as enabling some non Council owners to realise their aspiration of selling. The timespan is however very challenging and in order to meet it, a special scheme has been devised and implementation action has commenced; participants are however aware that the scheme is subject to the approval of the Major Projects Board.

## KEY FEATURES OF THE OPPORTUNITY PURCHASE SCHEME

8. The key scheme conditions are:

- 8.1 The Council will pay market value for the properties to be acquired
- 8.2 The Council will make one offer for each property where a valid application is received
- 8.3 The offer made by the Council will not be negotiable
- 8.4 The vendor must provide vacant possession of the property on completion
- 8.5 The vendor must complete the sale to the Council by no later than 31 March 2009
- 8.6 In addition to market value, the Council will pay vendors Home Loss. In the case of owner-occupiers this is 10% of the market value; for non resident owners it is 7½% of market value
- 8.7 The Council will pay owner-occupiers disturbance to cover their reasonable costs arising as a natural and direct consequence of the Council acquiring their home; no disturbance will be payable to non resident owners
- 8.8 In the event of the scheme being over subscribed the Aylesbury Project Director will prioritise properties according to size with larger units being given preference over smaller ones. Furthermore, additional NDC capital resources of approximately £3 million will be available for non Council owned residential property purchases in the financial year 2009/10 so some suitable applicants may be rolled forward for the second year of the programme. It is also proposed to prioritise owners from the early phases.
- 8.9 The Council will not provide any assistance to vendors in rehousing them or their tenants if they are non resident owners
- 8.10 If at the time of completion of the purchase there are any arrears of service charge and/or Council Tax these will be deducted from the consideration paid to the vendor.

## **KEY ISSUES FOR CONSIDERATION**

9. In order to meet the very challenging demand of using the funding by 31 March 2009 it is necessary to adapt our usual policy on acquiring residential properties ahead of compulsory purchase. This however will not prejudice affected owners because they will have the opportunity to sell to us under normal terms at the time allocated in the approved phasing plan.
10. As it takes around ten weeks once respective lawyers are instructed to complete the necessary legal documentation, terms for the Council's purchase will have to be agreed before the middle of January. This means negotiation around the Council's offer will not be possible. Also, as the Council will only complete purchases where it receives vacant possession, the vendor must either have another home in which to live or be able to move into another home on the day the Council completes the purchase. The scheme conditions in paragraph 8 reflect this.
11. Many owners on the Estate will not be able to participate in the scheme because either they don't have other homes to live in or the timescale of the scheme is such that are unable to purchase a replacement home by 31 March 2009. For many others, their financial circumstances are such that they are dependent upon assistance from the Council in securing a replacement home and the process involved in this is such that the time limit cannot be met.
12. For the reasons set out above, the scheme has limited appeal. However, it does enable some properties to be acquired ahead of schedule that in turn can be used to house residents being displaced on the Estate and the funding assists with the overall viability of the regeneration.
13. Once acquired, the properties will be available for short-term housing purposes. In this connection, the greatest need is for larger units. By ring-fencing the properties it will help

towards minimising disruption for residents required to make short-term moves during regeneration and relieve pressure on the wider Housing List.

14. The decline in housing sale values has been extensively reported in the media. This has a dual effect. On the one hand, vendors' aspirations for their property are likely to be disappointed but on the other hand the cost of buying a replacement property has fallen considerably.
15. Should further funding become available for property purchases on the Estate that is not subject to such strict timelines for spending it is proposed that acquisitions take place on the normal compulsory basis and this Report authorises such purchases subject to the conditions at paragraphs 1.1 to 1.3.

## **FINANCIAL CONSIDERATIONS**

16. The total approval sought in this report is between £19½ million and £23½ million. This is dependent on the level of actual funding to be received from the NDC – the appraisal proposes to contribute a minimum of £14 million and a maximum of £18 million.
17. The NDC Partnership agreement has approved in principle a capital contribution in the current financial year of £7 million. It is further agreed that this entire sum can be allocated to the purchase of non Council owned residential properties on the Estate. Programmed expenditure on Phase 1A and the hardships cases is currently scheduled at £4 million for this financial year. The Aylesbury Team is currently promoting a new leasehold buyback scheme which aims to deliver the remaining £3 million of further acquisitions.
18. The NDC provides a further £7 million of capital for the 2009/10 programme of which £2 million could be used for purchase of further residential properties. There is a potentially a further £4 million capital contribution which is currently allocated to projects that are deemed at risk and a proportion of this may become available to the Council should the projects not proceed.
19. The Council has an agreed capital budget for Phase 1A leaseholder buybacks of £9.955 million of which £644,644 was spent in 2007/08. It is proposed that the capital savings accrued to the Council through the NDC funding of leaseholder acquisitions should be rolled forward to enable further capital investment in the Aylesbury programme in future years.
20. It should also be noted that the council has available the balance of the original London Housing Board Grant [LHBG] which currently stands at £10.5 million. This is a capital accrual from the original refurbishment programme and it is proposed that could be used to support the Aylesbury regeneration scheme subject to Greater London Authority [GLA] approval. Discussions are ongoing with the GLA to utilise the remaining grant for non Council owned residential property purchases.
21. Subject to the relevant agreements being reached, the Capital Monitoring Report to Council Executive next month will include the following additional funds for the acquisition of residential properties on the Aylesbury Estate:

	<i>Minimum £million</i>	<i>Maximum £million</i>
NDC funds	9.0	13.0
LHBG	<u>10.5</u>	<u>10.5</u>
Additional capital identified	19.5	23.5

### *Notes*

- a) *NDC funds adjusted to remove non residential property purchase elements*
- b) *LHGB funds adjusted to reflect the amount available*

## **POLICY IMPLICATIONS**

22. As previously discussed the regeneration of the Aylesbury Estate is an approved Council policy and has been the subject of a number of past reports.

## **AGENDA 21 IMPLICATIONS**

23. Regeneration will result in buildings using the latest sustainable techniques with lower carbon emissions. The new buildings will also be to modern design standards.

## **EQUALITY AND DIVERSITY IMPLICATIONS**

24. As part of the regeneration of the larger site, an Equality and Diversity Impact analysis will be carried out and where potential adverse implications are identified action will be taken to overcome/mitigate them.

## **CONSULTATION**

25. Extensive consultation with residents has been carried out and described in the Statement of Community Involvement which was submitted with the detailed Planning Application for Phase 1A regeneration and for the submissions to Planning Committee for the Area Action Plan at preferred options stage. Further full consultation with residents will take place as the regeneration progresses.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Finance Director**

26. This Report is seeking approval to acquire residential properties on the Aylesbury Estate ahead of the scheduled timetable, where capital funds which have been approved for this purpose, exist and have been included in the Council's Capital Programme.
27. The revenue implications of acquiring additional properties ahead of the scheduled programme will be felt by the HRA, as following acquisition the properties income and expenditure will fall within the HRA. Housing Finance Officers must be kept informed of all proposed purchases to ensure they have budgeted for these effects.
28. Approval to spend the additional capital funds identified in the report is subject to approval by the relevant external body granting the funding [CLG and GLA] and also to agreement by the Executive of the relevant capital monitoring report. It is anticipated that the capital funds identified in this report will be included in the Capital Monitoring Report going to Executive next month.
29. There is a risk that the conditions surrounding the use of the NDC funds identified in this report will prevent the Council from being able to access them. These risks arise from the developing Partnership agreement referred to in paragraph 6.
30. Whilst this report requests authority to proceed with an unlimited number of acquisitions on the Aylesbury Estate without further authority being sought, any additional capital funds required to undertake these acquisitions will require approval from Executive through the Council's Capital Monitoring process.
31. Paragraph 19 within the Financial Implications section is effectively requesting a ring-fencing of £9.3m of currently committed capital funds to the Aylesbury project rolling forward. Agreement to this will be required by Executive through the Council's Capital Monitoring process

### **Director of Legal & Democratic Services**

32. The Major Project Board is recommended to approve the acquisition of non Council owned residential properties on the Aylesbury Estate subject to the conditions set out in sub paragraphs 1.1-1.3 of this report..
33. The Major Projects Board is advised that Section 120 (1) of the Local Government Act 1972 (“the 1972 Act”) authorises the Council to acquire any land by agreement for the purposes of (a) any of its statutory functions or (b) for the benefit, improvement or development of its area. Section 120 (2) of the 1972 Act enables the Council to acquire by agreement any land for any purpose for which it is authorised by the 1972 Act or any other Act to acquire land, notwithstanding that the land is not immediately required for the purpose for which it is acquired; and, until it is required for that purpose, it may be used for the purpose of any of the Council’s functions. This power would enable the Council to acquire the residential properties and make them available for short term housing purposes as set out in paragraphs 12 and 13 of this report, until such time as they are required for redevelopment.
34. Further, Section 227 of the Town and Country Planning Act 1990 enables the Council to acquire land by agreement if it will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land if this is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental well-being of their area, or if it is required for a purpose which is necessary to achieve in the interests of the proper planning of an area in which the land is situated.
35. The Major Projects Board is advised that there are adequate powers available to the Council to acquire the residential properties by agreement and if the Board is satisfied that the conditions specified in sub paragraphs 1.1-1.3 and paragraphs 27 and 28 above are met it may proceed with the approval of the recommendation.

### **Head of Property**

36. Early purchases also offer tactical advantages in reducing the number of properties needing to be acquired in subsequent phases of regeneration. They will help to set a tone of values which will assist with future negotiations or compulsory purchase. Properties acquired in this manner may be suitable for use as temporary accommodation. Funding is clearly the principal restraint but properties will need to be acquired eventually in order for development to take place. Subject to funding and to valuations being duly approved, the Head of Property is happy to endorse this report.

### **Head of Home Ownership**

37. HOU agrees with the early repurchase of as many properties as possible ahead of the indicative phasing. There is some risk in re-letting properties acquired by this method because of the timescales related to the service of initial and final demolition notices (Housing Act 2004, as amended) which suspend, then end, the right to buy in regeneration schemes. The total maximum time by which demolition must have taken place from the service of the initial demolition notice to the expiration of the final demolition notice is nine years (seven years for the initial and two years for the final). The risk already exists that the Council must allow a claim for the right to buy to complete on properties in the latter phases which have not been served demolition notices (assuming that the tenants qualify to buy in all other respects). Although unlikely, it follows that should any of the properties regained by early repurchase be re-let on a secure tenancy or on terms that may lead to a secure tenancy, the advantage of the initial early repurchase may be negated if a qualifying tenant were to exercise their right to buy. This, in itself, would be mitigated to some degree by the cost floor calculation always exceeding the (current) right to buy discount of £16,000 such that any tenant exercising their right to buy one of these properties would, in effect, receive no discount and such a purchase would be less attractive.
38. As these early repurchase cases will not require financial assessment, HOU will not have significant involvement in the processing of these cases apart from the usual administration

involved in verifying outstanding service charges, closing down service charge accounts, etc which will not significantly increase workload and no further staffing resources are required.

**Head of (Housing) Strategy and Regeneration**

39. The purchase of interests from homeowners on the Aylesbury Estate is a key component in the delivery of the agreed regeneration proposals. The early acquisition of leasehold and freehold interests will represent very tangible progress in the delivery of the scheme, both in extinguishing the various ownership rights, and in providing valuable rehousing capacity for households who need to move twice. The early acquisition programme is therefore supported.

**Reason for Lateness**

40. This report has been held over pending discussion of the New Deal for Communities Partnership report. It was originally envisaged that both reports should be circulated together as one dealt with policy and the other with implementation. However, the partnership (policy) report is now being submitted to a later meeting of the Major Projects Board but it will be helpful nevertheless to consider the implementation report in order to save time in the expectation of a later approval of the partnership paper.

**Reason for Urgency**

41. In order to utilise the windfall funding of £7m NDC capital in the current year(2008/9)a number of properties need to be purchased by 31 March 2009. Executive must authorise these acquisitions. In order for major projects board to feed into February’s Executive the report must be considered at January’s major projects board meeting. If it is not, it will go to February’s board meeting and feed into executive in March which will be too late to spend the money and the windfall will be lost.

**BACKGROUND PAPERS**

Background Papers	Held At	Contact
Project files	63-67 Newington Causeway London, SE1 6BD	Patrick McGreal 0207 525 5626

**APPENDICES**

No.	Title
	Not applicable

**AUDIT TRAIL**

<b>Lead Officer</b>	Martin Smith Aylesbury Project Director		
<b>Report Author</b>	Patrick McGreal		
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<b>Dated</b>	7 January 2009		
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<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>			
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>	
Chief Finance Officer	Yes	Yes	
Head of Property	Yes	Yes	
Director of Legal & Democratic Services	Yes	Yes	
Executive Members	Yes	No	
Housing	Yes	Yes	
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