

Item No. 6.	Classification: Open	Date: February 19 2009	Meeting Name: Major Projects Board
Report title:		Rehousing Projects – Rehousing Assistance for Leaseholders of Pensionable Age	
Wards affected:		East Walworth	
From:		Strategic Director for Major Projects	

RECOMMENDATIONS

1. To agree to amend the leaseholder assistance scheme to include a new Option A1, which would enable elderly leaseholders who qualify to buy an alternative council property on shared ownership terms (Option A) to be offered the choice whether to take the shared ownership option or to become a council tenant.
2. To agree that the new Option A1 is only available to leaseholders above pensionable age.
3. To note that the new option A1, will also apply to leaseholders on the Aylesbury estate.

BACKGROUND INFORMATION

4. Since January 2008, when rehousing assistance applications were first accepted from leaseholders on the Heygate Estate, there have been a total of 32 applications; 8 of which have been submitted by leaseholders of pensionable age. As of 22nd January 2009, in accordance with policy agreed by the Executive, 3 of these applications have been recommended for council tenancy, 2 have been recommended to buy an alternative property on shared ownership terms, 1 case does not qualify for rehousing assistance (having more than sufficient capital to purchase outright on the open market) and 2 cases are in the process of being determined (provisionally both qualifying to buy an alternative property on shared ownership terms).
5. As the Executive is aware, it is the first time that the council has considered offering any rehousing assistance to leaseholders affected by regeneration save that required by statute, i.e. non-priority rehousing as a council tenant. The policy that has been adopted is innovative and addresses the needs of most leaseholder groups. However, it must be recognised that any new policy is likely to be subject to adjustment as the wide-ranging needs of individuals are not easy to identify and quantify in advance, especially where there are no precedents to base it on. Indeed it is now becoming increasingly apparent that the needs of a certain category of resident elderly leaseholders on the Heygate estate are not being addressed effectively by the current policy.
6. The majority of elderly Heygate leaseholders have lived on the estate since its construction, are mortgage free, having purchased their homes at the inception of the Right to Buy Legislation, and rely on their pensions and savings as income. A number of them do not financially qualify for council tenancy within the current policy, as the level of capital they can gain from the repurchase of their Heygate homes, along with their savings and income, enables them to afford some level of subsequent home ownership. They are therefore eligible to buy an alternative council property on shared ownership terms. The type of property is likely to be a flat or maisonette in an estate which will also attract service charge liabilities.

KEY ISSUES FOR CONSIDERATION

7. As stated above, so far we have 8 applications from leaseholders above pensionable age for financial assistance. Feedback from these leaseholders to case management officers has identified difficulties caused by falling between qualifying for Council tenancy and not qualifying

for any assistance at all (based on their financial assessment); i.e., the social and financial consequences of taking on shared ownership. This group has indicated that they believe that Council tenancy is their only viable option. They do not want to buy on shared ownership terms and consider that renting on the private market is expensive (especially in the Heygate vicinity), provides inadequate security of tenure, and possible limitations on the ability to make any necessary property adaptations.

8. The financial assessment process looks at all capital assets, saving and investment owned by the leaseholder. Leaseholders are allowed to hold £16,000 in savings, which they don't have to put toward the cost of home ownership. For leaseholders above pensionable age, the current policy also does not factor in any ability to finance a mortgage as part of the leaseholder's purchasing power (the assessment does factor in any ability to finance a mortgage for leaseholders under pensionable age).
9. Going from outright ownership with no mortgage liability to owning only a share with an equity rent means elderly leaseholders reluctant to take up shared ownership. Ordinarily, it is difficult if not impossible for elderly leaseholders to increase their income, therefore, unlike leaseholders under pensionable age, they are unlikely to ever attain full ownership and the assurance that this has already provided them as a homeowner. Even though the financial assessment takes into consideration all financial aspects (initial sale, ongoing costs of service charge liabilities and equity rent, income and expenditure, etc), if they are assessed as being able to afford the shared ownership option, this does not provide elderly leaseholders with a situation which is analogous to their current one.
10. The ethos of shared ownership per se is to sell housing on affordable terms as a step onto the housing ladder for those who cannot afford to currently buy outright. The implication is that the buyers will be of working age and the purchase will lead to outright ownership by stair casing or sale and onward purchase. Shared ownership is not designed for, very rarely marketed to and is unattractive to elderly people. Therefore, although younger leaseholders may have similar issues to those of pensionable age (i.e. currently on fixed incomes), they are considerably more likely to cope with the transition to shared ownership because; -
 - they are more likely to have an existing mortgage,
 - they will have less physical needs and therefore more choice of properties,
 - the move is more likely to be viewed as financially advantageous and
 - they do have the ability to increase their income and eventually attain full ownership.

In addition, evidence suggests that younger households are more likely to consider moving further to more affordable areas, as it is much easier to establish new social and neighbourhood links.

11. Evidence shows that the majority of elderly Heygate leaseholders have a strong desire to be relocated in the immediate vicinity of the Heygate estate, having built up various social and neighbourhood links in the area. The majority also require ground floor properties as a result of mobility and health issues. As the immediate areas of Borough & Bankside and Walworth have already undergone or are undergoing extensive regeneration, this has made properties in these areas more expensive in relation to the values of the Heygate properties. This means that in many cases, properties in this area are only available on a shared ownership basis, if at all (our figures indicate that elder leaseholders may not be able to afford the minimum 25% stake in a suitable and desirable property in this location).
12. Whilst this group of elderly leaseholders are aware of the necessity to move from the estate, comments to case officers indicate that they feel they are being disenfranchised and penalised for having planned their future and acting thriftily. Without an exit route that they deem acceptable, elderly leaseholders may feel unable to move which will result in us being unable to close down the blocks they remain in. This will have an undesirable impact on the timescale of the regeneration programme. In addition, elderly leaseholders that are left isolated and

vulnerable, pepper-potted on the estate are likely to attract unwanted and unsympathetic media attention.

13. In order to alleviate the current position, it is recommended that provisions within the current financial assistance for leaseholders are amended to allow elderly leaseholders who qualify to buy an alternative council property on shared ownership terms (Option A) to be offered the choice whether to take the shared ownership option or to become a council tenant. This would be a new Option A1 (see appendix 1) which would be only available to leaseholders above pensionable age. Currently the maximum number of Heygate leaseholder's likely to be affected is 6.
14. It is not considered necessary to extend Option A1 to elderly leaseholders who do not qualify for any assistance, i.e., they are assessed as being able to afford to purchase a suitable alternative property in the borough outright. Support in terms of assisting them to seek suitable properties to purchase will continue to be provided.

FINANCIAL CONSIDERATIONS

15. The financial considerations associated with a minority of leaseholders who are of pensionable age being offered Council or RSL tenancy instead of shared ownership are marginal. The risk that some leaseholders remain in their properties and therefore delay the regeneration project could result in adverse financial implications for the Council which could potentially be material. This policy seeks to mitigate the risk of being unable to acquire the leaseholds of properties owned and occupied by leaseholders of a pensionable age within the desired timescales.

POLICY IMPLICATIONS

16. There are no significant new policy implications rising out of this report.

RESOURCE IMPLICATIONS

17. There should not be any additional effect on the availability of properties for lettings through Homesearch during the rehousing of the Heygate. If the policy were unchanged, the same number of properties would have been required to enable elderly residents to exercise the shared ownership option.
18. Currently the leaseholder options are available to residents on both the Heygate and Aylesbury regeneration estates. Should the amendment to the leaseholder assistance scheme be agreed, it is recommended that the Aylesbury rehousing assistance policy is also amended.
19. At present there isn't exact information on how many resident elderly leaseholders are on the Aylesbury estate. However, given there are approximately 3 times as many leaseholders on Aylesbury than on the Heygate estate; if there were a similar proportion of eligible leaseholders above pensionable age, this would equate to 18 who would have the option to choose to fall back into council tenancy. This figure may increase slightly given the 15 year span of the project: as inevitably some leaseholders will move into retirement during the programme. However, it should be noted that if leasehold values increase during this period, it may make it more likely
20. That leaseholders would be able to purchase outright suitable alternative accommodation.

LEGAL IMPLICATIONS

21. The Employment Equality (Age) Regulations 2006 only apply to the workplace (and retirement provisions). However, the Single Equality Bill currently before parliament will, amongst other things, extend the application to prohibit discrimination on the grounds of age in the provision of goods and services. The Bill is unlikely to become law until the last quarter of this year. Further the provisions relating to age discrimination in the provision of goods and services are unlikely to

be implemented until later. When these do come into force they are likely to mirror the existing equalities strands and will be subject to similar exemptions and the defence of justification.

22. Article 14 of the European Convention on Human Rights (also implemented by the Human Rights Act 1998) prohibits discrimination on the grounds of age unless the Council can justify it i.e. show that it is pursuing a legitimate aim and that the discriminatory treatment is proportionate to the aim. The proposed changes to the leaseholder assistance package would be positive discrimination. Therefore, a possible challenge may be made by leaseholders under pensionable age under Article 14 (non-discrimination) taken with protocol 1, Article 1 (Property). Provided that the Council can justify its proposal, it should be able to defend such a challenge. In order to justify a discriminatory practice, the justification must be based on evidence and not assumption. The evidence about the disproportional impact of the current policy on elderly residents is based on direct feedback from those leaseholders currently being adversely affected.

COMMUNITY IMPACT STATEMENT

23. The Council's Equalities and Human Rights Scheme sets out how the Council will meet its legal responsibilities under the various current Equalities and Human Rights legislation. The currently policy has resulted in elderly leaseholders having a restricted range of options to assist them move off the estate compared to leaseholders below retirement age. Therefore, the current policy is not in line with the council's equal opportunities policy objective. The proposed change in the assistance package if adopted will correct this inequality.

CONSULTATION

24. Invaluable anecdotal information provided by the Case Management and Home Ownership teams, as a result of a long term close working relationship with all engaging leaseholders on the estate.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Finance Director

25. This report proposes a change to the current Rehousing Assistance policy for leaseholders within regeneration projects who are of pensionable age. The change is to allow leaseholders of pensionable age, who would qualify for option A to also be offered the option to become an RSL or Council tenant (Option A1). The Finance Director agrees that the financial implication for the Council of this change is considered to be marginal. The risk of delay to the project if we are unable to acquire leaseholds within projected timetables or if we are forced to use CPO powers could result in increased costs to the Council which must be mitigated where possible.

Head of Home Ownership

26. The Home Ownership Unit has fully collaborated, advised and contributed to the contents of this report and concurs entirely with the recommendations given within.

It should be noted that the council is currently still waiting for the specific consent granted to dispose of properties under its Social Homebuy scheme to be amended to allow for disposals under Option A. However, this should not prove to be problematic as senior civil servants have expressed their wish to expedite matters and are in full support of the application.

BACKGROUND PAPERS

Background Papers	Held At	Contact
Heygate Leaseholders Rehousing Toolkit	Coburg House 3 rd Floor 63-67 Newington Causeway SE1 6DB	Rebecca Ashton 0207 525 4808
Social Homebuy documentation and information	Home Ownership unit 113 Lorrimore Road London SE17 3NA	Sam Cheng 0207 525 4338
Major Projects Report - 'Project Updates', dated October 16 2007	Coburg House 3 rd Floor 63-67 Newington Causeway SE1 6DB	Rebecca Ashton 0207 525 4808

APPENDICES

No.	Title
1	Heygate Leaseholders Rehousing Toolkit : Amendment (19.02.2009)

AUDIT TRAIL

Lead Officer	Stephen McDonald		
Report Author	Ola Agbaimoni		
Version	Final		
Dated	February 9 2009		
Key Decision?	yes	If yes, date appeared on forward plan	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER			
Officer Title	Comments Sought	Comments included	
Strategic Director for Finance	Yes	Yes	
Strategic Director Legal & Democratic Services	Yes	Yes (under legal implications)	
Strategic Director Environment & Housing	Yes	No	
Head of Home Ownership	Yes	Yes	
Executive Member	Yes	No	
Date final report sent to Constitutional Support Services			February 10 2009

Appendix 1: Heygate Leaseholders Rehousing Toolkit : Amendment (19.02.2009)

Option A1 – Choosing to come back as a tenant rather than taking up the offer of purchasing a vacant council property on a shared ownership basis.

This option assists leaseholders who are above pensionable age (65) and have been assessed as qualifying for Option A, buying a vacant council property on a shared ownership basis, BUT would prefer to become a council or RSL tenant. .

If you are assessed as being able to afford to purchase **a share** of a vacant council property, rather than being able to afford **full ownership**, you will have the choice of whether to proceed with shared ownership or be offered the chance of becoming a council or RSL tenant. If you choose to become a tenant you will be supported to select an alternative council or RSL home using Southwark Homesearch.

Option A1 – the small print

The case management team will help you to be rehoused as a council or RSL tenant. We will buy back your property at full market value, and give you [Home Loss and disturbance payments](#). You will then share the same priority status (Band 1) as other Heygate tenants, and be supported to bid on Southwark Homesearch for an appropriate property.

You will not become a council tenant until your bid is successful, and you have vacated your Heygate home. This means you remain a leaseholder until you move into your new home. We will arrange for the completion date of the purchase of your property to coincide with the start date of your new tenancy in your new home.

Please note: We are unable to purchase your home and allow you to remain in your property until you have been rehoused as a council or RSL tenant.

You should ensure that any service charges are up to date when we complete the purchase and you vacate your Heygate home. Any outstanding payments to the council will be deducted from the proceeds prior to the monies being transferred to your solicitor.

