

Item No.	Classification: Open	Date: February 9 2010	Meeting Name: Executive
Report title:		Abbeyfield Estate – Options for Investment	
Ward(s) or groups affected:		Rotherhithe	
From:		Strategic Director of Regeneration and Neighbourhoods	

RECOMMENDATION(S)

That Executive agrees:

1. The re-housing of residents from Maydew House, Abbeyfield Estate, and marketing for sale and refurbishment of the block.
2. The lettings policy outlined in paragraphs 44 and 45 is applied to the rehousing of tenants and leaseholders in Maydew House.
3. That officers be instructed to open negotiations to purchase by agreement the residential long leaseholds in Maydew House and other commercial interests within the boundary of the site; which is shown edged red on the plan at Appendix A.
4. That the Head of Property be authorised to conclude purchases provided the terms represent best consideration to the council.
5. That Social Homebuy will be denied to tenants in Maydew House, and any applications will be withdrawn – see paragraph 102.
6. That officers be instructed to conclude further feasibility work and report back on investment options for the wider Abbeyfield Estate – specifically Damory and Thaxted Houses and the Bede Centre, and how these might link with the sale of Maydew House.

BACKGROUND INFORMATION

7. Maydew House is a 24 storey block of 144 two bedroom flats on the edge of Southwark Park. It is part of the Abbeyfield Estate which also includes Thaxted and Damory Courts and the Bede Centre.
8. From 2001, there has been a policy of not permanently letting vacant flats in Maydew due to the identified need to carry out major/Decent Homes works. The work would require the rehousing of residents because of both the extent of the work and the need to disturb the embodied asbestos within the flats.
9. For most of this period, void properties within the block have been let as temporary accommodation.

10. The tenure at January 4 2010 within Maydew House was:

Tenants	98
Temporary Accommodation/Licences	36
Leaseholders	5
Voids	5

KEY ISSUES FOR CONSIDERATION

Decent Homes Investment

11. Southwark has an investment gap to meet its target of delivering a Southwark decent homes standard across all its stock. The report to executive in April 2008 (Southwark's Decent Homes Standard) identified the gap to deliver our investment needs as approximately £180 million – this figure will be reviewed on the completion of the new stock condition survey.
12. Although additional resources have been identified through the increase in capital receipts over a longer period, an investment gap will still exist.
13. Linked to this, an option appraisal model has been established, with the support of KPMG, to look at ways of addressing estates where there are very high costs; considering the best way to either deliver refurbishment works or looking at wider options for investment.
14. This appraisal has been carried out for Maydew House, where the full capital and revenue consequences of the delivery of Southwark's decent homes standard and the additional works have been assessed. (These are set out below in the resource implications section of the report).
15. The cost of delivering Southwark's decent homes standard and additional strategic safety works to the block is estimated by external surveyors as £15 million or over £100,000 per home. Investment of this level represents a significant pressure for the decent homes budget and given the housing investment gap is considered to be very difficult to justify. The prioritisation of these works against limited resources would also mean that there could be no guarantee when these works could be carried out. The earliest these works could be included in the investment delivery programme would be 2012/13, subject to prioritisation against our limited resources.
16. As part of the options testing a type 2 asbestos survey has been carried out for Maydew House that has confirmed the presence of asbestos throughout the building. In its present condition the asbestos is safe, and will remain so provided it is not disturbed. However it has been confirmed by a specialist consultant that decent homes work would release the asbestos. They have recommended that given the nature and scale of the proposed decent homes work residents should be moved out of the building for the duration of the work.
17. It is likely the decent homes work would take over 12 months to complete. That being the case rather than decant residents for such a long period there is considered to be a strong case to offer them a permanent relocation.

18. This means that no matter what is the future for Maydew House it will be necessary to relocate the existing residents. That opens up the recommended way forward that Maydew House should be declared surplus and sold for refurbishment.

Major Works

19. Urgent works are currently programmed for the block in relation to the refurbishment of the lifts and also works are on site addressing immediate requirements from the Fire Risk Assessment. These are communal works which will not impact on the asbestos internal to the flats.
20. To avoid the requirement to renew the lifts and also carryout further strategic safety works, an early decant of the block is required – see financial implications.

Option Appraisal

21. Officers have investigated three options to deliver the investment needed at Maydew House:
- The council to carry out our decent homes works and other improvements to the block; which for the reasons detailed in this report is not favoured – option A.
 - Empty and sell Maydew House so that it can be refurbished by a potential commercial developer for 100% private homes; which for the reasons detailed below is the favoured option – option B.
 - Demolish Maydew House and redevelop the site. On the basis of high level survey information this is not recommended for further consideration on the grounds that current planning policy would not allow development on the existing scale so that such an option is not financially viable in isolation.
22. The cost of the investment options have been calculated using a 15 year cash flow model that considers revenue and capital implications. The costs have been discounted to produce a net present value. The model looks at the entire Abbeyfield Estate and the costs considered include: decent homes work to all blocks; strategic safety work; the buyback of ‘right to buy’ leaseholds and disturbance payments for tenants; rent, service charge and housing subsidy implications; and, project costs to deliver the option.
23. The net present value of the option A and B s are as follows

	Option A – Retention & carry out all works	Option B – Immediate investment needs & sale
NPV value	-£16.4 million	£5.4 million

24. In terms of NPV there is clearly a considerable financial advantage to the council in pursuing option B over option A. These figures have been based on a set of assumptions which are sufficiently accurate and clear in their conclusion to establish a recommendation to sell. However, further work will continue as part of a due diligence process to review these figures, both separately for Maydew and also for the wider Abbeyfield Estate.

The sale of Maydew House

25. The working assumption behind this option B is that Maydew House would be sold to a commercial developer who would refurbish the building and sell individual flats. It is anticipated all of the refurbished units would be sold for private occupation. The precedent for this is the sale by Lewisham council of Aragon Tower in Deptford to Berkley Homes.
26. This assumption does not preclude a sale to a Registered Social Landlord (RSL) but such an outcome is thought to be unlikely. An RSL would have to fund the investment needed in the tower from rental income and this is not considered to be viable.
27. Initial soft market testing has confirmed that there is likely to be interest in Maydew House from commercial developers. However, the market for such a proposal, particularly at this time, is considered to be limited.
28. The Head of Property considers that if sold for refurbishment Maydew House is likely to achieve a significant receipt. The full capital and revenue implications of this option are set out below in the resource implications section of the report.
29. If the recommendation in this report is accepted then it is proposed to mitigate the risk of selling Maydew into a limited market in two ways: by the timing of a sale; and, by exploring ways to enlarge the market for the offer.
30. To a significant extent the timing issue will be addressed by the “natural” timetable imposed by the need to achieve vacant possession of Maydew and the time needed to market the building for sale. Two years is considered to be a reasonable assumption for the time it might take to transfer a vacant Maydew House to a developer. It is anticipated that during this period the housing market will continue to recover from its recent difficulties.
31. In order to meet this timetable it is recommended that negotiations be started with the 5 residential long leaseholders in Maydew and with the commercial occupiers within the site. The commercial occupier is the Bede Centre that is discussed below.
32. The second risk mitigation measure is to look at options to enlarge the area of land that is offered to the market. Soft market testing has confirmed that including an element of new build along with the refurbishment of Maydew is likely to attract a wider range of developers and there ways in which this might be achieved.
33. Maydew House is connected by a podium to the Bede Centre and to Damory and Thaxted Courts. Subject to further feasibility work and to resident consultation some or all of this land could be included in a sale.
34. It is known that the Bede have an aspiration to consolidate all of their services at one site and this could fit well with proposals to sell Maydew. Officers are in discussion with Bede to find a solution that will support their long-term plans and ensure the continued operation of this important and well respected organisation. Options for the re-development of the Bede site will be considered as part of the second stage of the appraisal process for the wider

Abbeyfield Estate alongside consultation on a suitable alternative site for the organisation.

Temporary Accommodation

35. At the beginning of January there were 34 units used as temporary accommodation within Maydew House and future empty properties and those becoming available through the decant will also be let as non-secure tenancies. This will continue until approximately 9 months prior to the required vacant possession of the block – subject to the cost of meeting a reasonable standard of accommodation for temporary use.
36. Households residing in Maydew House are housed under a non-secure tenancy as part of Homeless legislation, so will not be entitled to permanent accommodation or a home loss and disturbance payment as part of the decant process. However residents may be offered alternative housing as part of the temporary accommodation re-housing process. This will be dealt with by the Temporary Accommodation Service who will ensure clients are moved to suitable alternative accommodation separate from the scheme.
37. The Temporary Accommodation Service will ensure that vacant possession of these properties is achieved within the required timescale.

Leaseholder Issues

38. There are 5 leasehold interests in Maydew House; two of which are sub-let. Specific consultation will need to take place with the leaseholders themselves with the aim of obtaining vacant possession by negotiation.
39. If the option of the council retaining the block is considered, leaseholders would be liable for an element of both the decent homes refurbishment works, and the strategic safety works. The rechargeable element of these works would be in the region of £65 -70,000 per leasehold, which potentially could lead to affordability issues.

Wider Investment Options for Abbeyfield Estate

40. The Maydew tower is connected to Damory, Thaxted Courts and Bede Centre by a podium at first floor level. This will need to be removed and works to supply heating and hot water to the rest of the estate; the costs of which need to be allowed on for all options other than the basecase position of decant, refurbish and retain as local authority accommodation.
41. Feasibility work is currently being carried out to determine whether redevelopment is an option for these blocks, both in terms of financial feasibility and resident support – see consultation below. Any redevelopment options will be consulted with residents on Abbeyfield and surrounding area, the conclusions will be reported to Executive; if a recommended option to redevelop emerges.
42. A potential advantage of developing a scheme wider than just Maydew would be to improve the design and sustainability of the accommodation and to open up access to Southwark Park – both physical and visual access; and provide improved and sustainable mixed tenure accommodation

43. Key to the development of a wider scheme will be the planning policy for the area.

POLICY IMPLICATIONS

Decant Policy

44. The current decant policy as outlined in the council's lettings policy will apply. Tenants, and potentially leaseholders, will be given the highest re-housing status (Band 1) under this policy. There will not however be an option to return to the block if it is sold to a private developer.
45. As all the properties in the block are 2 bedroom homes, under the 2006 'Council Policy for rehousing tenants/homeowners on regeneration schemes' (Executive 26/9/06) re-affirmed in an Executive member decision in January 2009 (Rehousing tenants and homeowners on regeneration schemes – outcome of consultation exercise and final proposal), no tenants or leaseholders will be entitled to an extra bedroom above need. This is a different entitlement to those residents being decanted from the Heygate and Aylesbury Estates.

Implications on current decant programme

46. The Executive decision of October 14 2009 'Southwark Housing Strategy - 2009-16' noted the development of an interactive supply and demand model. Data within this model shows:
- *New affordable housing supply, both intermediate and social housing, including new RSL developments and Section 106 agreements.*
 - *Projected relets of both council and RSL housing (based on historic letting data).*
 - *Demand from residents being relocated as a result of regeneration schemes, based on phasing of schemes.*
 - *Demand from other priority housing applicants.*
47. From this model there is an assumption that 220 households will be decanted in regeneration schemes each year. It is difficult to accurately measure the impact of Maydew as successful rehousing will be determined by actual supply, need and choice – of both property type and area, for all the priority schemes. From experience, residents being re-housed as part of a regeneration scheme from different parts of the borough have different preferences as to where they want to live. Generally assumptions are that residents on the Abbeyfield Estate will want to remain in the north of the borough. This could put pressure on housing in the Bermondsey and Rotherhithe areas.
48. It is estimated the re-housing for Maydew will take 12 -18 months, starting April 2010.
49. Assuming that 100 Maydew units are decanted over 5 quarters beginning in April, the introduction of block, along with the previous inclusion of the Elmington blocks, may have some impact on the Aylesbury programme. It is expected that there will be minimal impact on the rehousing on sites 7 and 10 of the Aylesbury (which occurs Jan 2010 – Jan 2011.) There could however be some competition for housing in 2011/12, which could impact on achieving

vacant possession on Aylesbury sites 1b and 1c.

50. There is not however deemed to be a risk of accessing Homes and Communities Agency funding (Social Housing Grant) for these early sites, if there is a slight delay in gaining vacant possession and start on site.

Planning Policy

51. The disposal of Maydew for housing purposes, and its use for either private or intermediate tenures, would not in itself require planning permission, provided that the number of flats was not increased. Any material alterations to the appearance of the building, such as by re-cladding or the addition of balconies or additional floorspace, would however require a planning application.
52. In the event that any of the options A - C involve the provision of ten or more units of additional housing, any planning application would need to be made and determined in accordance with the local planning authority's development plan policies thus triggering provision of affordable housing as a percentage of the additional provision.

Consultation

53. Consultation with the Tenants and Residents Association took place on November 24, December 10 2009 and January 19, with a wider tenant and leaseholder meeting to inform the Executive report which took place on January 21.
54. The Tenants and Residents Association had been made aware of the proposal to decant Maydew House and the further feasibility work taking place to determine the investment options for the rest of the Abbeyfield Estate. Due to the nature of the tenure profile of the block, the identification of asbestos and the understanding of the extent of potential refurbishment works; it was always recognised by residents that they would need to be re-housed. The formal consultation process via way of a public meeting took place prior to the Executive meeting, so the results of this consultation could inform any Executive decision.
55. Tenants and resident leaseholders of the Abbeyfield Estate were informed of the meeting on January 21 by the delivery of letters outlining the proposed recommendations and giving the opportunity for comments and questions. Non-resident leaseholders have been consulted via their billing addresses.
56. 96 residents attended the meeting on January 21 2010 – a summary of issues is appended. (Appendix B). In response to the issues outlined in the appendix, a letter was circulated to all tenants in Maydew with the 'Frequently Asked Questions' (FAQ) with answers given. In addition, a handout was given out at the meeting of January 21 to be returned by February 5 asking for comments on the key issues; these will be reported separately to executive.
57. Posters had been placed within the block advertising the meeting – including notification of the pending meeting prior to Christmas; and post meeting, information on the access to consultation forms at the concierges' office and at the Bede Centre.
58. Local knowledge has been used to assess any translation or communication

issues and advice on the availability of translation services outlined on the poster and FAQ handout.

59. Consultation will take place with tenants and leaseholders pending the approval of the recommendations. Specific consultation/information to tenants being re-housed will take place via an open day, and a project team will be set up to consider options for any potential wider estate regeneration.
60. Further consultation of those tenants affected is required prior to an application to the Secretary of State to approve a scheme for the disposal and redevelopment of the block for the purposes of ground 10A of Schedule 2 to the Housing Act 1985 (regeneration ground for possession of secure tenancies). In order to meet legal requirements this consultation must be on both the application for approval and the details of the proposed scheme.

WIDER ISSUES

District Heating System

61. The plant for the Abbeyfield communal heating system is located on the roof of Maydew House. This links to Thaxted and Damory Courts by a network of pipes that are built into the podium that connects the buildings.
62. In the short-term individual heating systems will need to be installed in these blocks. The cost of this has been allowed within the option appraisal model.
63. The expectation that the refurbishment of Maydew House would include a communal heating system, potentially linking to the South East London Combined Heating and Power Plant (SLCHP).

CCTV monitoring

64. CCTV cameras from Hawkstone Road, Abbeyfield Road, Osprey & Silverlock Estates are monitored by, and recorded equipment located at, the concierge at Maydew. The CCTV system is old and in need of significant renewal or removal. Any decisions about investment in the system will need to be made in relation to the Executive decision.
65. There is also a microwave node on top of Maydew that is used to transmit images to the central CCTV monitoring suite (at Southwark Police Station) from LBS redeployable cameras and also a couple of LBS fixed cameras near Canada Water. Alternative arrangements will need to be made which potentially will have a cost to LBS. Alternatively we could negotiate with prospective purchasers to keep the node in operation.

Community Impact Statement

66. The tenure profile of Rotherhithe ward from the 2001 Census showed 44% of households rented from the council as opposed to 31% owner occupiers, 10% renting from another social landlord and 16% from a private landlord. 78% of residents were recorded as white and 16% as black. 40% of residents were economically active – the highest in the borough, with 31% aged under 16 or over 74 – the lowest in the borough.
67. Tenants and potentially leaseholders will have a priority for re-housing and their

accommodation will be based on their housing needs. This will mean for a number of households who are overcrowded they will be offered larger accommodation, whereas those under-occupying will only get one bedroom homes.

- 68. The potential sale of 144 two-bedroom units will have an impact on the council's ability to re-house residents from the waiting list. Two bedroom properties are dwellings which have the greatest demand from families, although they are also the size of homes where there is also the greatest supply – 35%.
- 69. The March 2009 executive report 'Capital Income Generation for the Housing Investment Programme and Hidden Homes', identified the average waiting time for applicants needing 2 bedroom accommodation in Bands 1-3 was 10 months, whereas for 3 bedroom homes this was 14 months and 4 bedroom -16 months.
- 70. The potential sale of the block will however have a positive impact on the housing investment programme and the delivery of Southwark's decent homes standard. Currently, over 40% of council tenants that are defined as non-decent under the government's standard. The net effect of not carrying out these works to Maydew and the potential receipt to the programme will mean that in excess of £20 million could be available to deliver other schemes.
- 71. Members of disadvantaged and minority communities are statistically more likely to be council tenants than the population as a whole. 36% of council tenants in the borough are black as opposed to 26% in Southwark as a whole – again from the 2001 Census. In addition national research has shown that BME tenants are more likely to live in properties that require higher levels of investment. Improved housing also has a direct impact on wider issues such as education, security and health, so with Southwark's limited resources to deliver its housing investment needs the recommendation to dispose of a block with very high costs will have the maximum benefit to tenant numbers.

Resource Implications

- 72. The latest cost analysis indicates the financial effect (on the whole estate including the Damory and Thaxted blocks) of the Maydew sale option, compared to retaining and doing decent homes works as follows over 16 years:

	Maydew Decent Homes		Maydew Sale	
	Total £m	NPV £m	Total	NPV*
Net Gain/(loss)	(16.4)	(16.4)	6.7	5.4

* NPV is the Net Present Value of future costs and income, discounted according to the time they occur in the future.

- 73. Whilst there thus appears to be a significant advantage (of over £20m) in the sale option, this is dependent on the level of capital receipts to be achieved from the sale and also the assumption that considerable revenue and capital expenditure would be incurred and able to be funded under the Decent Homes option. There is also the possibility that extra costs could be incurred in preparing sites for sale/demolition and the advantage could thus further reduce.
- 74. It should be noted that the sale option's main financial advantages are in the gain in the net capital position –an NPV of £6.3 million net receipts if sold compared to

£16.1m net cost for the Decent Homes option. In terms of the current programme, there would be problems in funding the main £15 million cost of the Decent Homes option but the £2m currently allocated would be sufficient to cover acquisition and home loss payments under the sale option.

75. The revenue HRA position of the estate for the 16 years is indicated to worsen slightly from a net NPV of £0.4 million gain under decent homes to £1.2 million loss if sold. The initial rent and subsidy effects of decanting have been allowed for in the draft 2010/11 HRA budget. The sale option has revenue advantages in early years as it includes immediate strategic work only and avoids a further £3 million of further works.
76. Key to the decision to decant the block is this potential saving of investment works as part of the council's approach to strategic safety for its blocks, potentially the cost of these are in the region of £3 million. These works cannot however be significantly delayed. Urgent works arising from the Fire Risk Assessment will be carried out whatever the period of occupancy, and are programmed to take place in 2009/10 and 2010/11.

Investment implications (inv/ii2427/rjb)

77. Provision has been made within the housing investment programme for expenditure of up to £2 million in 2010 and 2011, for the recommended option of decant and sale of Maydew House.
78. Any decision on the future of Maydew House will impact on the housing investment programme, and more specifically on the decent homes programme. The costs associated with decant and sale of the block, including the buy-back of leasehold interests and home loss payments, are estimated at £2 million. While provision has been made within the programme for these costs, this reduces the level of resources available to deliver the decent homes programme in the shorter term and any higher costs will have a direct impact on this programme. However, the expenditure can be offset against the future capital receipt which will be achieved, by the earmarking of that receipt for the housing investment programme. The balance of the receipt will then be available to deliver the wider decent homes/investment programme.
79. In the absence of a decision to sell the block then the costs associated with the refurbishment of the block to decent homes standards will need to be funded directly from the decent homes allocation, at an estimated cost including home loss payments associated with the decant of the block of £15 million to bring the dwellings up to standard. This is not programmed within the current investment programme.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

80. Section 21 of the Housing Act 1985 vests the council with the power to manage its housing stock. This power enables the council to adopt such policies as it considers appropriate for the better management of its stock.
81. Section 105 Housing Act 1985 requires the council to consult with its secure tenants on matters of housing management, which in the opinion of the council as landlord represents a new programme of maintenance, improvement or

demolition and is likely to substantially affect either secure tenants as a whole or a group of them. The recommendation for the decant and marketing for sale for refurbishment of Maydew House is likely to substantially affect secure tenants living there and formal consultation is therefore required.

82. To meet legal requirements consultation must:
 - Be undertaken when the proposals are still at a formative stage
 - Include sufficient reasons for the proposals to allow any interested party the opportunity to consider the proposal and formulate a response; and
 - Allow adequate time for interested parties to consider the proposal and formulate their response
83. The report sets out the consultation that has already taken place and indicates that further consultation is planned in advance of the Executive taking a decision on this matter; the outcome of such consultation will be presented to the executive.
84. Executive members should take the outcome of consultation into account when the taking a decision on the proposals.
85. If the recommendations are agreed, while the ideally the council will seek to gain possession of properties held under secure tenancies by agreement, some tenants may not agree to relinquish their tenancy and in those circumstances the council will need legal authority to obtain possession. Secure tenants can only be required to give up possession of the property they occupy if one or more grounds for a possession order in Schedule 2 to the Housing Act 1985 are made out. Ground 10A is available where the council intends to dispose of property which is the subject of a redevelopment scheme approved by the Secretary of State and intends to dispose of the dwelling house within a reasonable time of obtaining possession in accordance with the scheme. For the court to make an order under this ground, suitable alternative accommodation must be available to the tenant.
86. The procedure for obtaining Secretary of State approval of a redevelopment scheme for the purpose of ground 10A is set out in Part V to Schedule 2 of the Housing Act; included is a requirement that the landlord consult with tenants as to both the application for approval and the details of the proposed scheme. This requirement is recognised in paragraph 58 of this report. The landlord must give the tenant at least 28 days to make representations. The Approval may be subject to conditions and a time limit after which approval will expire.
87. The Secretary of State's approval may take some time to obtain so it would be prudent to make the application at the first available opportunity following details of the development scheme being worked up.
88. Those occupying 'temporary accommodation' will generally be non secure tenants who do not have security of tenure. However if such tenants refuse to vacate temporary accommodation the council would need to obtain possession under a court order; an order in this situation would be available to the council as of right (subject to the correct procedural requirements being fulfilled). Those vacating temporary accommodation may (but not necessarily) be entitled to the provision of alternative accommodation depending on their circumstances.
89. Generally speaking occupying leaseholders are not entitled to be re-housed by

the council following 'buy back' of their property. However the council has a duty under section 39 of the Land Compensation Act 1973 to provide persons displaced from residential accommodation in consequence of specified events, with suitable alternative accommodation if no such other accommodation on reasonable terms is otherwise available to them. The events specified by the Act include a situation where land which has previously been acquired or appropriated for housing purposes and is currently being held for such purpose is to be improved or redeveloped. This duty may be triggered if the recommendations in this report are agreed. The duty does not, however, apply to trespassers or persons permitted to reside in any dwellings pending its improvement (e.g. those in temporary accommodation provided under homelessness legislation). In considering whether suitable accommodation on reasonable terms is otherwise available, the local authority will need to look at the circumstances of the displaced person. This can include the person's financial circumstances. The council will need to have regard to its applicable re-housing policy.

90. Home loss and disturbance payments under the Land Compensation Act 1973 may be available to displaced qualifying residents. In certain situations the council must make such payments to those entitled. In other situations the council has discretion to make payments.
91. If the recommendation to market for sale and refurbishment is approved, secure tenants and long leaseholders occupying properties as their only or main residence in Maydew house throughout the period of one year ending with the date of displacement ('qualifying period'), will be entitled to home loss payments. Discretionary payments may be made to those secure tenants and leaseholders occupying properties as their only or main residence at the date of displacement but who have not done so throughout the 'qualifying period'. Where the council proposes to exercise its powers in this regard it must do so in a fair and consistent way, while taking care not to fetter its discretion in order to comply with the requirements of administrative law. Persons occupying temporary accommodation under homelessness legislation are not eligible for home loss payments.
92. If the recommendation is approved, all secure tenants and leaseholders occupying accommodation in Maydew house will be eligible for disturbance payments following displacement; the qualifying period applicable to home loss is not a requirement for disturbance payments.
93. As to home loss payments, the amount payable is fixed by law; in the case of owner occupiers it amounts to 10 per cent of the value of their property subject to a maximum threshold of £47,000 and a minimum threshold of £4,700 and in any other case a flat rate of £4,700 is applicable.
94. As to disturbance payments, these cover the reasonable expenses of a person entitled to payment in removing from the land from which he is displaced. The amount payable is not fixed and it is for the displacing authority to decide in the first instance what is reasonable although any dispute may be taken to the Lands Tribunal for determination.
95. There are several statutory powers pursuant to which the council may acquire Maydew House:

- Section 17 of the Housing Act 1985 ("the 1985 Act") empowers local authorities to acquire land, houses or other properties for the provision of housing accommodation;
 - Section 120 of the Local Government Act 1972 ("the 1972 Act") provides that as a principal council, the Council may acquire by agreement any land for the purposes of any of the Council's functions, or for the benefit, improvement or development of the area;
 - Section 227 of the Town and Country Planning Act 1990 ("the 1990 Act"), if the council thinks the acquisition will facilitate the carrying out of development, re-development or improvement in relation to the land (provided this is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the area) or the land is required for a purpose which it is necessary to achieve in the interests of the proper planning of the area.
96. Of these powers, it is considered that Section 17 is the most appropriate, as this is the principal power to purchase land and housing in order to provide housing by erection or conversion, or to dispose of the land to someone else to provide housing on it. Section 17(2) of the 1985 Act expressly provides that the power conferred by Section 17 includes power to acquire land for disposal to a person who intends to provide housing accommodation on it.
97. Land that is held by the council for housing purposes can only be disposed of pursuant to Section 32 of the 1985 Act, for which purposes the consent of the Secretary of State for the Department of Communities and Local Government is required. A number of General Consents have been issued by the said Secretary of State under the General Consent for the Disposal of Part II Land 2005 for the disposal of housing land but it is not considered that a disposal of Maydew House for refurbishment will fall within these consents. The council's constitution requires applications to the Secretary of State for consent to disposal of land held for housing purposes to be approved by council Assembly.
98. An alternative disposal route may be to appropriate Maydew House for planning purposes and use the disposal power contained in Section 233 of the 1990 Act. This authorises councils to dispose of land in such manner and subject to such conditions as may be expedient in order to '(a) secure the best use of that or other land and any other buildings or works which have been or are to be erected, constructed or carried out on it or (b) to secure the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.' Should the council wish to dispose of the land under Section 233 at less than best consideration for that particular type of development, the consent of the Secretary of State will be required, but this will not require Council Assembly approval. However, appropriation of housing land may have an adverse impact on the Housing Revenue Account and general fund and this will need to be quantified before the disposal strategy is fixed.
99. A team of lawyers from Communities, Law & Governance are advising on this matter and will continue to assist during the rehousing and disposal process.

Head of Home Ownership & Tenant Management Initiatives

100. It is recognised and accepted that the option to carry out decent homes works and other improvements to Maydew House is not financially viable. Indeed,

the estimated apportioned cost to each affected leaseholder (£65-70,000 per leasehold property) would be enormous and highly likely to lead to non-payment of the service charges in respect to them, LVT hearings and court action at some considerable cost to the council in terms of time, staffing and monetary resources. The three resident leaseholders would have to be relocated temporarily and the terms of the relocation negotiated and agreed which would be contentious, time consuming and without guarantee of success. This would cause delay to works commencing and force the council to continue to provide an acceptable level of service to them under the specific covenants laid out in the lease. For the two non-resident leaseholders, compensation for loss of rental income and any penalties the leaseholder must pay to their tenant for ending a tenancy early would need to be factored in. The Head of Home Ownership & Tenant Management Initiatives concurs that Option B is preferable.

Right to Buy

101. Sections 182, 183 and schedule 9 of the Housing Act 2004 (as amended by schedule 13 of the Housing & Regeneration Act 2008) allow a local authority to serve demolition notices with the effect of suspending or ending the right to buy on properties due to be demolished. However, where the option of demolition is not being considered, it follows that demolition notices cannot be served.

Social HomeBuy

102. Tenants may also purchase their homes via the Social HomeBuy scheme that the council has been operating since April 2006. However, here the council can set its own qualification criteria.

District Heating System

103. Of the 24 units comprising Thaxted Court, eight are leasehold. Five of the leaseholders are identified as non-resident. Of the 35 units comprising Damory House, 11 are leasehold with only two identified as non-resident. The landlord (i.e. the council) is covenanted to provide heating and hot water via a communal system to these units. In order to effect the recommendations laid out in paragraphs 61 - 63 of this report, all leaseholders would have to agree to the replacement of the communal system with individual heating systems in the short term and then eventual linkage to SLCHP should this prove viable.
104. Maintaining the current district heating system would be highly frustrated in consideration that the council may resolve to sell Maydew House where the plant for the three blocks is located. Provisions would have to be made to ensure that the system is maintained by either the council or the new owners and the billing and apportionment would be complicated with the additional need to negotiate management and maintenance fees between the parties which would then need to be passed down to the leaseholders. It is estimated that the fixed element of the service charge associated with the provision of heating and hot water would rise by at least 50% for affected leaseholders, a commensurate position to the situation on the Salisbury estate where the district heating system is connected to the ailing system located on the Heygate estate and the fixed cost is being spread amongst fewer properties.
105. The council could offer to pay for all the costs associated with removing the current district heating system, installing individual heating systems and linkage

to SLCHP. This may also include any payments that non-resident leaseholders renting out their properties to tenants may have to pay them in compensation for any temporary loss of those services in accordance with individual tenancy agreements and arranging and paying for temporary accommodation for resident leaseholders and tenants of leaseholders should they need to be relocated temporarily whilst works are underway.

Other matters

106. Under the recent amendments made to the lettings policy, resident leaseholders affected by regeneration schemes who must have their properties repurchased are entitled to be considered for rehousing. However, this deals solely with those leaseholders who are unable to make an ongoing purchase on the open market and wish to be considered for council tenancy. Homeowners affected by the regeneration schemes on the Heygate and Aylesbury estates are also permitted to purchase a council property on shared ownership terms from the council's own stock should their affordability level be such that some level of home ownership is affordable but full ownership is not and in consideration of their needs (in terms of bedroom size). This option is also being offered to resident leaseholders affected by the Lakanal fire. In addition, leaseholders on Aylesbury and Heygate qualify for priority listing for shared ownership purchases in the sub-region. (Administered by London and Quadrant).
107. There is a financial incentive to buying back properties without recourse to a Compulsory Purchase Order (CPO), this incentive is now set out in SI 2003/3146 The Local Authorities (Capital Finance and Accounting)(England) Regulations. Councils are allowed to pool 35% of their annual costs (over £50,000) of administering and buying back ex council properties, offsetting this amount against the set aside for capital receipts from the Right to Buy. Instead of having to pay 75% of RTB capital receipts to the government, councils are obliged only to pay a lesser sum, the original amount being reduced by a sum equivalent to 35% of all non CPO buy back costs over £50,000 in any financial year. It is hoped that the majority of repurchases will be by agreement.

Finance Director / Departmental Finance Manager

108. The existing policy of not permanently letting flats that become vacant is in keeping with all of the options for Maydew House. To this end the indicative rehousing programme plans for the rehousing of the existing tenants during 2010 and 2011. £2 million has been allocated from the Housing Investment Programme (HIP) to cover the rehousing costs and the purchase of the 5 leasehold interests. This £2 million is considered to be sufficient. However, the risk of any shortfall would impact on the wider housing investment programme.
109. The impact of the rehousing would potentially affect other priority rehousing schemes. Further work needs to be done to assess the impact of the timing the rehousing needs across the borough, other properties becoming available and the potential need for Private Sector Leasing (PSL) for temporary accommodation.
110. In the short term not permanently letting the flats as they become available will be beneficial to the council in meeting its temporary accommodation requirements. However, the temporary accommodation requirements will need

to be managed as this block and other regeneration blocks are vacated. There may be a cost implication to the general fund if there is an increased requirement for private sector leasing.

111. The finance director recognises that the disposal of Maydew House shows a clear short term and long term financial advantage over the retention and refurbishment. Therefore, he supports this course of action in meeting the councils housing needs.

BACKGROUND PAPERS

Document	Held at	Contact
N/A		

APPENDICES

No.	Title
A	Map of Maydew Site
B	Consultation Results – Meeting 21/1/10

AUDIT TRAIL

Lead Officer	Richard Rawes, Strategic Director of Regeneration and Neighbourhoods	
Report Author	Fiona Cliffe, Investment Strategy Manager	
Version	Final	
Dated	January 28 2010	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director for Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Executive Member	Yes	No
Date final report sent to Constitutional Support Services		1 February 2010