

Committees:	Dates:
Housing Management and Almshouses Sub Community and Children's Services	20/11/2019 13/12/2019
Subject: Lettings/Sales Policies for new developments	Public
Report of: Andrew Carter Director of Community & Children's Services Report author: Michael Kettle Senior Housing & Commercial Development Manager	For Decision

Summary

This report summarises the context for the consideration of leaseholder arrangements in relation to proposals for estate regeneration, by advising on the legal framework for securing vacant possession of leasehold properties. The report recommends an appropriate approach which balances the need to minimise disruption and act fairly, with the interests of maximising the affordable housing provided by regeneration proposals. This report is also being submitted to the Community and Children's Services Committee, as the issues involve estate regeneration policies and arrangements as well as housing management matters.

Recommendations

Members are asked to agree the following:

Leaseholders

- Long leaseholders who occupy their flat as their only or principal home and, who wish to remain on the estate will, if their existing flat is subject to demolition, be offered a new flat on a shared-equity basis;
- Any long leaseholder taking up a shared-equity offer will be expected to invest funds from the purchase of their old property and a proportion of any Home Loss payment (plus a potential voluntary contribution from savings). Any value gap will be met by the City Corporation retaining an equity share in the property.
- The shared-equity terms will not require the leaseholder to pay rental on the equity that they do not own but, they will be liable for 100% of the service charge.
- The shared-equity opportunity will not be available to long leaseholders who do not occupy their flat as their only or principal home. Instead, they will be offered market value plus compensation if, their flat is subject to demolition as part of the new development.

Secure Tenants

- Reaffirm that secure tenants must be offered alternative accommodation and that, in line with the previously adopted Local Lettings Plan, if their flat is subject to demolition, they will be offered a new flat within the new development and will only need to move once.

Windsor House

- The Long Leaseholder policy proposed above to be communicated to long leaseholders in an Information Bulletin.
- Long Leaseholders to be asked to register interest in the shared-equity opportunity, so that an assessment of likely project viability can be undertaken.

Main Report

Background

1. At its meeting on 16 September 2019, the Housing Management and Almshouses Sub-Committee confirmed the adoption of a Local Lettings Plan and Tenants Charter for new developments on our estates. Members agreed that long leaseholders who occupy their flat as their only or principal home would be offered a new flat if their existing flat was subject to demolition on terms to be agreed. Members requested that a further report be brought to this Committee to agree a policy for absentee long Leaseholders and the purchase of leasehold properties.
2. New housing developments are being proposed at Sydenham Hill, Avondale Square, Sumner Buildings, York Way and Windsor House. The developments would be mainly infill, without the need for any demolition but, the proposals for Avondale Square and Windsor House do involve some demolition of existing units.

Considerations

3. During initial discussions with Windsor House residents about the potential regeneration of their estate, it became clear that affected leaseholders are anxious to understand the likely compensation/rehousing package available to them before they reach a view on the proposals. The City Corporation also needs to assess the likely interest in shared-equity opportunities in order to assess the viability of the proposals.
4. Where dwellings held under lease need to be demolished, it will be necessary to obtain vacant possession of the leasehold interest. Unless agreement is reached with the leaseholder, vacant possession can only be obtained through a Compulsory Purchase Order (CPO) made by the local authority in whose area the estate is located. Whether or not a CPO can be justified in any case, is a matter for that local authority, having regard to the legal criteria including, whether the interference with private rights is proportionate to the wider public interest. A CPO must also be confirmed by the Secretary of State. It is impossible to prejudge the decision of any local authority and the Secretary of State on a CPO. However, estate regeneration proposals would always be undertaken in close liaison with the

host authority and would only be embarked on where there was an agreed public interest. It is therefore likely that estate regeneration proposals, particularly when aimed at providing additional affordable homes, would justify a CPO being made, if necessary.

5. Where vacant possession is obtained under a CPO, the leaseholder is entitled to compensation based on the market value of the leasehold interest and other statutory compensation entitlements (reasonable professional fees, home loss and disturbance). If there is no suitable alternative accommodation available to displaced leaseholders on reasonable terms, the local authority in which the dwellings are located becomes responsible for re-housing them. This is potentially an issue where the leaseholder wishes to remain in the local area but, where all other properties in the area have higher values than the leasehold dwelling. Where leaseholders are not in occupation, they may have tenants who may also have housing needs if they are displaced by the regeneration proposals.
6. It is in the interests of all parties to try to reach agreed terms for vacant possession without the need for a CPO. This can help mitigate the stress and uncertainty suffered by residents and, if negotiations are successful, can save the cost and delay of the CPO process.
7. This Sub-Committee requested a further paper on the purchase of leaseholds and the option to offer shared-equity terms. This will ultimately, provide information for leaseholders to help them respond to consultation on the regeneration proposals.
8. The terms on which leaseholds should be purchased and, the basis on which any offers of alternative accommodation should be made to leaseholders, should be considered in the context of the leaseholder's compensation entitlement in the event of a CPO. The broad purpose of the compensation rules is to ensure that the displaced owner is no worse off as a result of compulsory acquisition.
9. Members have previously expressed concern that not offering leaseholders a new property within the new development would not be fair or appropriate and, could result in a negative ballot for the regeneration proposal.
10. It was also suggested that consideration be given to the process adopted in other authorities. The London Borough of Hackney, who has carried out regeneration on some of its own estates, adopts a different policy for leaseholders depending on whether they reside in their flat as their only or principal home. Leaseholders who do not reside in their property as their principal home and, sublet their flats, are subject to Compulsory Purchase. The London Boroughs of Southwark and Islington also adopt similar policies for their leaseholders. The London Borough of Southwark, for example, offers its secure leaseholders a new flat on a shared-equity basis if the value of their new flat is more than their existing property. However, they do not pay rental on the part they do not own but, do pay the full service charge.

Proposals for leaseholders

11. It is proposed that leaseholder owner-occupiers who wish to remain in the local area will be offered a new flat in the development on a shared-equity basis. If, however, they are able, and wish to purchase 100% of the equity, they can do so.
12. If the compensation/market value of the leaseholder's old property leaves a value gap, this will be met by the City Corporation retaining an equity share in the property (equivalent to the value gap, after any voluntary application of savings by the leaseholder). The leaseholder will not have to pay rental on the equity share retained by the City Corporation but, will be liable for the full service charge.
13. By way of example, if the existing flat was valued at £300,000 and the new flat was valued at £600,000, the leaseholder would own a 50% share of the new flat with no rent payable on the City Corporation's retained 50% share. The leaseholder would, however, be liable for 100% of the service charge. This would be a private arrangement with the leaseholder and, when the property is subsequently sold, the City Corporation would recover its 50% equity share from the sale proceeds. Respective safeguards would be put in place in the legal documents to protect the City Corporation's equity share and to ensure that the resale would be at full market value.
14. It should be noted that, this equity-share option would only be available to leasehold owner-occupiers. It is justifiable to adopt different terms for absentee leaseholders as, absentee leaseholders are not in housing need for a property on the estate. Provision of equity-share properties to absentee leaseholders would be likely to prejudice the City Corporation's ability to offer housing to those most in need.

Windsor House

15. Due to the advanced stage of the consultation process with residents at Windsor House, if agreed by Members, leaseholders should be advised as quickly as possible of the approved equity-share opportunity to assist them in responding to the consultation. If the recommendations are agreed, these will be included in an information bulletin to be provided to leaseholders as soon as possible.
16. The information bulletin will explain that if regeneration is carried out, it would be over a long period of time of up to 10 years. Therefore, it is not the City Corporation's intention, at this stage, to embark on repurchasing or providing new accommodation for leaseholders but, to simply assess the impact that a full regeneration programme will have and whether it would be financially viable.
17. Windsor House consists of 104 flats, 32 of which are held on long leases and, of these, 16 are absentee landlords. A summary of the consultation process so far is attached as Appendix A to this report. This shows that three options have been considered for the estate as below.
 - Do nothing;
 - Partial infill (to provide approximately 30 new units);

- Full regeneration to demolish the existing estate in a phased process over 10 years and replace with 220 new units.
18. The consultation, though inconclusive at this stage, does indicate that there is some appetite for the regeneration of the estate. This would replace a tired estate, in poor condition, which was built in 1927, with new fit-for-purpose homes that meet modern day space standards.
 19. The City Corporation must agree its policy for sold flats if there is to be major regeneration resulting in the demolition of properties. Any major regeneration project involving Greater London Authority (GLA) grant funding, would be subject to a positive resident's ballot.
 20. Our consultation with the Windsor House residents is currently on hold until the City Corporation's policy on leasehold flats is formalised. The next stage in the process would be to submit an outline options appraisal report to decide on appropriate way to proceed, and to approve funding for consultants if it is agreed to carry out some development on the estate.
 21. It is estimated that the total cost of purchasing all 32 leaseholders on the Windsor House Estate, at full market value, would be in the region of £13 million. This assumes an average sale price of £400,000, with a further £2 million being payable in compensation. The cost to the City Corporation of the forfeited rental on the equity-share properties provided to displaced owner-occupiers would also need to be calculated before proceeding, to establish whether the scheme remained viable.

Residents Ballot

22. From 18 July 2018, the Mayor required any landlord seeking GLA funding for estate regeneration projects that involve the demolition of social homes to show that residents have supported their proposals through a ballot. The requirement applies to projects that involve the demolition of any social homes and the construction of 150 or more homes (of any tenure).
23. Ballots must be open to all residents aged 16 years or older living on an existing social housing estate, not just those currently occupying homes that are due to be demolished, who meet one or more of the following three eligibility criteria:
 - Social tenants, including those with secure, assured, flexible or introductory tenancies, named as a tenant on a tenancy agreement dated on or before the date the Landlord Offer document is published;
 - Resident leaseholders or freeholders who have been living in their properties as their principal home for at least one year prior to the date the Landlord Offer is published and, are named on the lease or freehold title for their property;
 - Any resident, whose principal home is on the estate and, who has been on the local authority's housing register for at least one year prior to the date the Landlord Offer is published, irrespective of their current tenure.
24. For the avoidance of doubt, residents living in temporary accommodation and private rented sector tenants are not eligible to vote, unless they have been on the

local authority housing register for one year or more (regardless of how long they have lived on the estate).

25. Members will appreciate the importance of the Residents Ballot in relation to the proposals for Avondale Square and Windsor House, which do involve some demolition of existing units and, for which, GLA funding is likely to be sought. The implementation of the new Lettings/Sales Policies for new developments, as contained in this report, will give some reassurance and certainty to those leaseholders who will be entitled to participate in the Residents Ballot.

Equality Impact Assessment

26. An Equality Impact Assessment will be carried out to ascertain how the proposed regeneration would affect residents. It is expected that the proposed regeneration will have a positive impact with the provision of modern fit-for-purpose homes being provided for residents with mobility problems and other issues.

Conclusion

27. The adoption of a Local Lettings Plan and a Tenants Charter has provided information to secure tenants to assist their participation in the consultation process at Windsor House to date. However, those documents do not address the arrangements for compensation and rehousing of leaseholders. The consultation process at Windsor House has stalled, pending information on those arrangements being provided to leaseholders. The policies recommended in this report are fair and equitable. It is proposed that they be contained in an information bulletin provided to leaseholders in order to continue discussions with Windsor House residents. Further reports regarding the potential dialogue with host boroughs in relation to CPO will be reported to this Committee in due course.

Appendices

Appendix A – Summary of the Consultation Process at Windsor House Estate

Michael Kettle, Senior Housing & Commercial Development Manager,
T: 020 7029 3944
E: michael.kettle@cityoflondon.gov.uk