

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

Summary

On 16 September 2019, the Housing Management and Alms-houses Sub-Committee confirmed the adoption of a Local Lettings Plan and Tenants’ Charter for new developments on our estates. It was also 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 also requested that a further report be brought to Committee to agree a policy for absentee long leaseholders and the purchase of leasehold properties.

This report summarises the context for the consideration of leaseholder arrangements, by advising on the legal framework for securing vacant possession of leasehold properties where this is required to enable estate regeneration. The report recommends an appropriate approach that balances the need to minimise disruption and act fairly with maximising the affordable housing provided by regeneration proposals. This report is also being referred to the Grand Committee because 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 shared-equity flat.
- Any long leaseholder taking up a shared-equity offer will be expected to use funds available from the purchase of their old property, a proportion of any Home Loss payment (plus a potential voluntary contribution from savings). Any value gap will be met by the City, retaining an equity share in the property.
- The shared-equity terms will not require the leaseholder to pay rental on the part that they do not own, but they will be liable for 100% 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. 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 the adopted Local Lettings Plan confirms that, 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 will be communicated to long leaseholders in an information bulletin.
- Long leaseholders will 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. 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 proposals for Avondale Square and Windsor House could involve some demolition of existing units. During initial liaison with Windsor House stakeholders, it has become clear that affected leaseholders are concerned to understand the likely compensation or rehousing package available to them before they reach a view on the proposals. The City also needs to assess the likely interest in shared-equity opportunities in order to assess the viability of proposals.

2. Where dwellings held under leaseholds 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 under 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 particular case is a matter for that local authority, having regard to the legal criteria, including whether the interference with private rights is proportionate in 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 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.
3. 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 rehousing them. This is potentially an issue where the leaseholder wishes to remain in the local area but 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.
4. 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 local stakeholders and, if all negotiations are successful, can save the cost and delay of a CPO process.
5. The Sub-Committee sought a further paper on the purchase of leaseholds and in relation to offering shared-equity terms. This will provide information for leaseholders to help them respond to consultation on regeneration proposals.
6. 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.
7. Some Members at the last meeting were concerned 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 a regeneration proposal.
8. It was also suggested that consideration be given to practice in other authorities. We spoke to the London Borough of Hackney, which has carried out regeneration on some of their own estates. They adopt 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 CPO. The London Boroughs of Southwark and Islington also offer 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 they do pay a full-service charge.

Leaseholder Proposals

9. 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.
10. If they are able to purchase 100% of the equity, it will be open to them to do so.
11. If the compensation/market value of the leaseholder's old property leaves a value gap, this will be met by the City 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 but will be liable for the full-service charge.
12. Thus, if their existing flat was valued at £300,000 and their new flat was valued at £600,000, they would own a 50% share of their new flat, with no rental being payable, but they would be liable for 100% of the service charge. This would be personal to them and so, on resale of the property, the City would recover its 50% equity share from the sale proceeds. Respective shares safeguards would be put in place in the legal documents to protect the City's equity share and ensure that the resale would be at full market value.
13. This equity share opportunity would only be available to leasehold owner-occupiers.
14. It is justifiable to adopt different terms for leaseholders because 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's ability to offer housing to those in need.

Windsor House

15. Due to the advanced stage of residential consultation at Windsor House, if agreed, leaseholders should be urgently informed of the recommended equity-share opportunity to assist them in responding to the consultation. If the recommendations are agreed, these will be contained in an information bulletin to be provided to leaseholders as soon as possible.
16. Windsor House consists of 104 flats, of which 32 are held on long leases, and of these, 16 are absentee landlords. A summary of the consultation is attached in Appendix A, and from this you will note that three options were considered for this estate, namely: do nothing; partial infill (add approximately 30 units);

and full regeneration – demolish the existing estate in a phased process over 10 years and replace with 220 new units.

17. The consultation, though inconclusive, does indicate that there is some desire for a regeneration of this estate. This would replace a tired estate (which was built in 1927) with new fit-for-purpose properties that meet modern day space standards.
18. The City must agree on its policy for sold flats if there is major regeneration resulting in the demolition of some blocks. Obviously, any major regeneration involving Greater London Authority (GLA) grant funding would be subject to a resident's ballot. Our consultation with the Windsor House residents is currently on hold until our policy is formalised. The next stage in the process would be to submit an outline options appraisal report to decide on the appropriate way to proceed, and to approve funding for consultants if it is agreed to carry out some development on the estate.
19. It is anticipated that the total cost of purchasing all 32 leaseholders at full market value would be in the region of £13 million, assuming an average sale price of £400,000, with a further £2 million being payable in compensation. The cost to the City 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.
20. If agreed, leaseholders should be urgently informed of the recommended equity-share opportunity to assist them in responding to the consultation. If the recommendations are agreed, these will be contained in an information bulletin to be provided to leaseholders as soon as possible. Long leaseholders will be asked to register interest in the shared-equity opportunity, so that an assessment of likely project viability can be undertaken.
21. The information bulletin will confirm that, if regeneration was carried out, it would be over a long period of time, up to 10 years. Therefore, it is not the City's intention to embark on repurchasing or providing new accommodation for leaseholders at this stage, but to simply assess the impact that a full regeneration programme will have, and whether it would be financially viable.

Equality Impact Assessment

22. An Equality Impact Assessment will be carried out to ascertain how the proposed regeneration would affect residents. It is hoped that it would have a possible impact with fit-for-purpose dwellings being provided for residents with mobility problems and other issues.

Conclusion

23. The adoption of a Local Lettings Plan and a Tenants' Charter has provided information to tenants to assist their participation in the consultation process at Windsor House to date.
24. However, those documents do not address proposed 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 CPOs will be reported to this Committee.

Appendices

Appendix A – Consultation Summary

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