

HOUSING MANAGEMENT CONSULTATIVE SUB COMMITTEE

Agenda Item 56

Brighton & Hove City
Council

Subject:	Park Royal – leasehold enfranchisement		
Date of Meeting:	1 April 2014 – Housing Management Consultative Sub-Committee 2nd April 2014 - Central Area Panel 30 April 2014 – Housing Committee 1 May 2014 – Policy & Resources Committee		
Report of:	Executive Director of Environment, Development and Housing		
Contact Officer:	Name:	Simon Pickles, Housing Stock Review Manager	Tel: 29-2083
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Ward(s) affected:	Regency		

GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 To inform Committee of the legal enfranchisement process which leaseholders have invoked.
- 1.2 To explain the council's new role of 'tenant' resulting from enfranchisement. From Thursday 20th March 2014 the council is no longer the freehold owner of these two blocks of flats.
- 1.3 The report recommends the disposal, on the open market, of the remaining tenanted flats as and when they become empty, in order to fund additional affordable council accommodation across the city.

2. RECOMMENDATIONS:

- 2.1 That Housing Management Consultative Sub-Committee and Central Area Panel note the contents and recommendations in this report.
- 2.2 That Housing Committee note the completion of sale of the freehold and the change of freeholder and management of the two Park Royal buildings.

- 2.3 That Housing Committee recommends to Policy & Resources Committee that the council agrees to dispose of its remaining interest in 24 flats in nos 1 – 44 and 45 – 85 Park Royal, when they become empty, investing the capital receipts into the provision of additional affordable council accommodation across the city.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 A summary of the leasehold enfranchisement process is at Appendix 1.
- 3.2 The council and the nominee purchaser, Park Royal Brighton Ltd, have agreed the terms of enfranchisement for the two council properties 1-44 and 45-85 Park Royal, Montpelier Road, Brighton. Completion took place on Thursday 20th March 2014.
- 3.3 The council was served two Initial Notices under the Leasehold Reform, Housing & Urban Development Act 1993 by lawyers acting for Park Royal Brighton Ltd., on 9 January 2013.
- 3.4 The transaction includes both of the buildings and the boundary curtilage of the buildings including the car parking spaces. The site plan is at Appendix 2.

4. BACKGROUND - NEW ROLES

- 4.1 Completion of the transaction means that the qualifying group of leaseholders in each building has successfully 'enfranchised' from the council as freeholder, and is now the freeholder of the two buildings with the obligation to keep them in repair and to provide insurance and services.
- 4.2 The council has taken mandatory leasebacks of the tenanted flats in the building, effectively becoming the leaseholder of the ex-leaseholders, with rights to be consulted on high cost works and the obligation to pay the service charge.
- 4.3 The council remains the landlord of its weekly rent paying tenants in the building and is still responsible for the interior repair of their flats, excluding the windows and window frames.
- 4.4 The council needs the prior written consent of the freeholder to carry out any structural alterations within flats that have been leased back.
- 4.5 Impact on future maintenance and management:
- a. Responsibility for keeping the exterior of the premises in repair along with any structural elements, common parts and the building as a whole has passed with the freehold ownership to Park Royal Brighton Ltd. The leaseholders' managing group has appointed a managing agent, Jacksons based in Hove, to manage the building and the leases.

b. The council is only responsible for the repairs and planned maintenance to the tenanted flats, e.g. new kitchens and bathrooms, rewiring.

4.6 A summary of the wider housing management roles is at Appendix 3.

5. PROPOSED DISPOSAL OF THE 24 REMAINING FLATS

5.1 Officers are currently reviewing the HRA Asset Management Strategy. This review has so far concluded that detailed consideration, on a case-by-case basis, will be required to agree whether disposal occurs when a unit in a block where the freehold has been relinquished, becomes vacant through normal turnover.

5.2 The arguments in favour of the disposal of vacant properties are:

- They will lead to significant capital receipts which will fund the development of new replacement properties
- The council will not be able to guarantee service standards to its tenants, that relate to the management and maintenance of communal parts (because of having to rely on a third party provider, accepting legal action can be taken to enforce action).

5.3 On the evidence of the last 12 months, one tenanted flat has become available. Were the council to sell the next empty flat on the open market, we could expect to receive a capital receipt of some £200,000. The average cost of providing a replacement similar sized property would be approximately £150,000.

6. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

6.1 The argument against disposal is there would be a loss of social housing accommodation until the replacement homes have been built, which would not be supporting the council's housing strategy, which states: 'Retaining our Council housing stock is a cornerstone of our City-wide Housing Strategy and commits us to making best use of Housing Revenue Account (HRA) assets, building new council homes and increasing housing supply in order to address the shortage of affordable housing in the City'.

However, as our housing development programme gains momentum, new council homes are likely to be under construction all the time.

6.2 If members are interested in offering financial incentives to tenants to encourage them to move to alternative accommodation, further work on this can be undertaken by officers and brought back to committee.

6.3 Of the remaining 24 flats, 23 are 2 bedroom flats and one is a 1 bedroom flat.

7. COMMUNITY ENGAGEMENT & CONSULTATION

- 7.1 Now that we have completed we will be writing to all tenants, and also to any leaseholders who are not participating in the management group, to explain the change of management and the implications and continuity for them. We will offer meetings with individuals.
- 7.2 This report has been considered by the Central Area Panel on 2nd April and Housing Management CSC on 1st April.

8. CONCLUSION

- 8.1 Leasehold enfranchisement is a legal process which the council cannot prevent. The impact on our remaining tenants will be managed to ensure, as far as possible, they continue to receive high standards of service.
- 8.2 There is a decision to take with respect to disposing of our remaining tenanted flats. This report recommends disposal as and when the flats become available, and re-investing the proceeds in new affordable council homes.

9. FINANCIAL & OTHER IMPLICATIONS

- 9.1 Financial Implications:
- a. The purchase of the freehold provides a receipt of £135, 592 (Front block, Flats 1-43: £45,532; Rear block, Flats 44-85: £40,060; Appurtenant land: £50,000) which is available to re-invest in the Housing Capital Programme or be placed/ kept in HRA reserves to pay for future costs of major works at Park Royal, which will be chargeable under the terms of the Lease to the council, as leaseholder for the 24 remaining flats.
 - b. The Housing Capital Investment programme 2013/14 included an amount of £0.414m to be spent on Major works at Park Royal. This budget will be re-invested elsewhere within the Housing Capital Investment Programme with the capital variation being reported to Policy & Resources Committee through the TBM process.
 - c. The council has become the leaseholder of the remaining 24 flats across the two buildings and as such is responsible for paying annual service charges. It is anticipated that the annual service charges for these flats can be met from a reduction in the current expenditure on common ways. This will be monitored as part the TBM process.

- d. If the committee approve the disposal of the remaining 24 flats when they become empty, the capital receipt will be available for investment in building council homes. This could potentially realise a total capital receipt in the region of £4.5 million to £5 million.

Finance Officer Consulted: Susie Allen, Principal Accountant
Date: 12/3/2014

9.2 Legal Implications:

- a. The Council is legally obliged to comply with Part 1 Chapter 1 section 1 to 38 of the Leasehold Reform, Housing & Urban Development Act 1993 (as amended), which is the governing piece of legislation. Thomas Eggar Solicitors were instructed to act on behalf of the Council in connection with the collective enfranchisement process.
- b. The General Consent for the Disposal of Land held for the purposes of Part II of the Housing Act 1985 – 2013 would enable the council to dispose of the 24 flats, once empty, provided a consideration equal to its market value is obtained.
- c. It is not considered that any Human Right Act rights would be adversely affected by the recommendations in this report.

Lawyer Consulted: Joanne Dougnaglo/ Liz Woodley Date: 24/12/13 and
14/2/14

9.3 Equality Implications:

There are no significant Equality and Diversity issues to report.

9.4 Sustainability Implications:

- a. The Council retains some influence on the choice of building materials in communal areas, as tenant (under consultation requirements) and where any Building Control involvement is required for works.
- b. The Council retains direct control over use of materials in the remaining tenanted flats.

SUPPORTING DOCUMENTATION

Appendix 1: A summary of the leasehold enfranchisement process

Appendix 2: Plan of Park Royal

Appendix 3: A summary of the wider housing management roles.

