

CABINET	Date 6th June 2007	Classification Unrestricted	Report No.	Agenda Item
Report of: Director of Housing Management Originating officer(s): Liz Ormston (New Partnerships & Initiatives Manager)		Title: TRANSFER OF THE TEVIOT, BROWNFIELD, ABERFELDY ESTATES TO POPLAR HARCA Wards Affected: East India & Lansbury Ward		

1 SUMMARY

- 1.1 This report sets out the proposed terms for the transfer of the Teviot, Brownfield and Aberfeldy Estates, collectively known as the East India Estates, to Poplar HARCA.

2 RECOMMENDATIONS

Cabinet is recommended to: -

- 2.1 Subject to the appropriate consents to dispose of the Brownfield, Aberfeldy & Teviot Estates to Poplar HARCA being sought and granted by the Secretary of State for Communities and Local Government ("the Secretary of State") and the Housing Corporation:
- (a) Agree the transfer of land on the Brownfield, Aberfeldy & Teviot Estates within the boundaries identified on the appended plans at nil value, subject to any further negotiation with Communities and Local Government (CLG) and Poplar HARCA on the terms set out in Sections 5, 6, 7, 8 and 9 of the report.
 - (b) Authorise the Director of Housing Management to carry out all the necessary steps including the making of a Compulsory Purchase Order if necessary to ensure that those properties in Currie House and Dunkeld House identified in Appendix 4 can be acquired.
 - (c) Agree that the Open Spaces in the East India Estates be disposed of in the best interests of the Borough subject to considering and taking into account any comments or objections received in respect of this proposal.
 - (d) Note that there will be retained rights of way as set out in paragraph 10 of the report.

Continued over-

LOCAL GOVERNMENT ACT 1972, SECTION 100D (AS AMENDED)
LIST OF BACKGROUND PAPERS USED IN PREPARATION OF THIS REPORT

Brief description of "background papers"

Housing Choice Files

Name and telephone number of holder and address where open to inspection.

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- 2.2 Note that the recommendations set out above and discussed in the body of this report are yet to be agreed fully by Poplar HARCA.
- 2.3 Authorise the Director of Housing Management after consultation with the Director of Resources to negotiate the precise terms and any outstanding issues relating to the transfer of the Brownfield, Teviot, and Aberfeldy Estates to Poplar HARCA as a consequence of 2.2 above.

3 BACKGROUND

- 3.1 The Brownfield, Teviot and Aberfeldy Estates collectively known as East India, Estates, comprise 941 homes with a tenure profile of 647 properties for rent and 294 long leaseholders. Of the rented homes 39 are currently being used by Homeless Services as temporary accommodation. The secure and introductory tenants of the East India Estates voted in favour of transfer to Poplar HARCA in November 2006.
- 3.2 The transfer will enable the delivery of a £45 million plus regeneration programme across the East India Estates over the first six years following transfer.
- 3.3 At its meeting on 1 September 2004, Cabinet agreed a policy framework for the negotiation of the terms of Housing Choice transfers to registered social landlords (RSLs). This report proposes terms for transfer within the agreed policy framework unless specifically stated otherwise. This report also sets out details of the land to be included in the transfer.
- 3.4 The results of the ballots for Brownfield, Teviot & Aberfeldy Estates were as follows:

TENANTS

Rate of participation..... 63.6%

Result

Number voting YES	365	(78.8% of the valid vote)
Number voting NO	98	(21.2% of the valid vote)
TOTAL	463	(100% of the valid vote)

LEASEHOLDERS

Rate of participation..... 29.1%

Result

Number voting YES	39	(32.5% of the valid vote)
Number voting NO	81	(67.5% of the valid vote)
TOTAL	120	(100% of the valid vote)

3.5 It is the outcome of the tenants' ballot that determines whether the Secretary of State will grant consent to the proposed transfer. The Secretary of State, when considering an application for consent, will take account of whether the majority of secure tenants affected by the proposed transfer are not opposed to it. The results of the tenants' ballot provide evidence of this. Consent is required to dispose of the land in the terms set out in this report according to Section 32 Housing Act 1985 (disposal of land held for housing purposes), Section 233 Town and Country Planning Act 1970 (for disposal of land appropriated for planning purposes being disposed of at less than market value) and Section 123 Local Government Act 1972 (disposal of open space/amenity land).

4. REPRESENTATIONS.

4.1 The formal consultation document and the Leaseholder Notice were sent to residents on the 1st September 2006. During this statutory 28 day consultation period, 91 consultation response cards were received of which 76 were in favour of the proposed regeneration proposals and the transfer to Poplar HARCA. Seven respondents were against the proposals and 8 were undecided.

4.2 During this time a complaint was received from a resident relating to a lack of consultation with his block. The block in question was not one of those proposed for transfer and therefore the statutory consultation process did not apply.

4.3 A further letter was received from non-residential leaseholder concerned about leaseholder contributions and hardship. A response was sent by the Council explaining repayment methods for major works and the assistance available.

4.4 In order to proceed with the transfer, the Council requires the consent of the Secretary of State. The Council constitution requires that the application for consent to dispose of more than 499 homes be approved by full Council. This was obtained at full Council on 15 June 2005 subject to the approval of the terms set out in this report.

5 LAND FOR TRANSFER

5.1 The land to be transferred includes: -

- (i) Tenanted, empty and leasehold homes. These are listed in the attached schedules (Appendix 1)
- (ii) Garages, parking spaces, pram sheds and other ancillary buildings
- (iii) Premises currently being used as community facilities

5.2 Plans indicating all of the land to be transferred are appended to this report (Appendices 2 & 3).

5.3 The land indicated on the plans includes 9 unregistered titles. The Council will where appropriate, register these with the Land Registry prior to transfer.

- 5.4 It is proposed to transfer all of the land to Poplar HARCA at nil value. This is based upon the Council's valuation according to the CLG Tenant Market Valuation model, which assesses the investment required to provide a 30-year life for the housing stock. Based on these guidelines the East India Estates has a value of minus £8,728,927. These figures may change subject to a final review with the CLG. Poplar HARCA will enter into a gap funding agreement for the amount of gap funding agreed directly with the CLG.
- 5.5 CLG will also make an overhanging debt payment to the Council, plus early redemption payments. This will be calculated using a CLG formula based on a proportionate percentage of the Council's attributable housing debt.

6 OUTLINE OF THE REGENERATION PROPOSALS

- 6.1 The regeneration proposals across the three estates comprise a combination of comprehensive refurbishment and redevelopment with the construction of new homes. These proposals include the following:
- 6.2 **Brownfield Estate:** includes two grade II listed, high rise buildings, Balfron Tower and Carradale House. Due to their listed status and the scope of works required, these blocks will incur very high refurbishment costs.
- 6.3 As part of the regeneration proposals tenants and leaseholders of Balfron Tower and Carradale House will be offered the opportunity of moving out of these blocks into new homes, which Poplar HARCA proposes to build within the Brownfield Estate and immediate area. A total of 130 mixed tenure homes will include family houses, flats and maisonettes will be made available in the first instance to residents of Balfron Tower and Carradale House. The exact tenure mix of the new homes will depend upon how many Balfron and Carradale residents, both tenants and leaseholders take up the option to move. Where this option is taken up, the properties vacated in Balfron Tower and Carradale House will be refurbished and sold, to provide additional funding towards the cost of building the new homes and regeneration of the Estates. Overall there will be no loss of homes for rent on the Brownfield Estate.
- 6.4 **Teviot Estate:** Most of the Teviot Estate transferred to Poplar HARCA in 1998. Since then a combination of refurbishment funded through the Estate Renewal Challenge Fund and redevelopment, partially funded through the SRB4 Programme have been completed. The proposals for the blocks still to be transferred include the decant of Tweed House with the decanted homes being reprovided within the East India Estates by Poplar HARCA and the block remodeled and sold to fund the cost of the new homes.
- 6.5 **Aberfeldy Estate:** As with Teviot the majority of the Aberfeldy Estate transferred to Poplar HARCA in 1998 and a similar mixed programme of refurbishment completed. Of the remaining homes, two blocks, Currie House and Dunkeld House Shown on Appendix 2B have been almost completely decanted as part of the SRB4 programme, having been replaced by new homes elsewhere on the estate. Decanting commenced in 1999. The new provision to accommodate decanted residents was also part of the SRB4 programme.
- 6.6 Cabinet agreed at its meeting of 30th April 2003 to include Currie House and Dunkeld House in the East India transfer proposal to enable their redevelopment and provide

cross subsidy towards the high costs associated with the overall regeneration works of the East India Estates regeneration programme.

- 6.7 A programme of rehousing tenants and buy-back of leaseholders' properties has been carried out at Currie and Dunkeld Houses and as at April 2007 there are 2 tenants and 2 leaseholders remaining in a total of 103 properties.
- 6.8 The proposed redevelopment scheme on the Currie and Dunkeld site will provide a new mixed tenure housing development of homes for sale, affordable and social rented housing. The homes being built on the site will provide essential cross subsidy to fund the wider refurbishment of the East India area. The initial outline scheme, which is still subject to planning permission proposes: -

Tenure	1 bedroom	2 bedroom	3 bedroom	4 bedroom	Total
Social Rented	11	20	17	8	56
Intermediate Sale	6	7	4		17
Private Sale	61	62	41		164
Total	78	89	62	8	237

More work is required to resolve the final mix to ensure that the Planning requirement of 35% affordable housing, without grant is achieved.

- 6.9 Currie and Dunkeld have long-standing decant status and work will continue to secure the overall vacant possession of these blocks.

Leaseholder Buy-backs

- 6.10 The Council has been buying back leaseholder properties from Currie and Dunkeld since 2000. Five leaseholds have been repurchased and 2 leasehold properties remain and detailed negotiations are in progress.
- 6.11 When leaseholders' properties are repurchased, leaseholders receive the full current market value of their property. In addition leaseholders who occupy their properties as their "principal" homes receive an additional 10% of the final market value as a statutory "Home Loss" payment. Poplar HARCA also offers lease swaps and conversion to a shared equity where there is insufficient capital in the existing property to purchase a newly constructed unit. Additionally leaseholders who do not occupy their flats may be eligible for an extra 7.5% of the purchase price as a "Basic Loss Payment," if they have maintained their flat well.
- 6.12 To help displaced leaseholders move to their new homes, their reasonable moving costs are paid, for example, solicitors' and valuers' professional fees, the hire of private removal companies, disconnection and reconnection of cookers, washing machines, and all associated domestic costs of moving from one property to another, including an allowance for carpets and curtains etc. Where a resident leaseholder makes their own arrangements, the Council meets the reasonable cost of stamp duty.
- 6.13 Poplar HARCA are committed to offering the same terms in order to enable the decant process to be progressed to the satisfaction of those concerned. Repurchases of

these leases will be prioritised to provide leaseholders with the option of selling back to the Council or Poplar HARCA (at full market value) if they wish to do so voluntarily.

Compulsory Purchase Order (CPO)

- 6.14 The Council will continue to pursue voluntary negotiations with the affected leaseholders of Currie House and Dunkeld House and to respond sensitively to their specific issues and concerns. Poplar HARCA will continue this approach if the blocks are transferred before the leases are repurchased. However given the scale of the proposed project, the overall regeneration benefits to the community as a whole and the urgency to start redevelopment as soon as possible it will be necessary to commence a precautionary CPO process on the remaining two leases within the blocks.
- 6.15 It is therefore requested that delegated authority be given to the Director of Housing Management to make a CPO in the most appropriate manner after consultation with the Assistant Chief Executive (Legal Services) and Director of Resources, to enable the buy-back of leaseholder properties in the blocks identified in Appendix 5..
- 6.16 Included in the CPO of Currie House and Dunkeld House will be all interests in the properties, as listed in Appendix 5 which needs to be an exempt document due to the inclusion of individual information.
- 6.17 This measure is necessary, since a failure to ultimately secure full vacant possession of the blocks could delay the wider regeneration scheme for the whole area, creating a risk of over-runs of time and money. The making of a CPO will not however affect the Council's and Poplar HARCA's work to secure vacant possession by negotiation with individual leaseholders.
- 6.18 The capital and revenue costs associated with the CPO process will be paid for by Poplar HARCA.

7 COMMERCIAL AND COMMUNITY PREMISES

- 7.1 There are three community facilities located within the boundaries of the estate to be transferred.

The Community Club and former TMO office at 82 St Leonard's Road

The Senior Citizens' club at 96 Burcham Street.

The Aberfeldy Islamic Cultural Centre – 2 flats in Currie House

- 7.2 It is proposed to include these premises within the transfer, as provided for within the Policy Framework. Negotiations with Poplar HARCA will proceed on the basis that the use of the premises by all sections of the community in either their current location or through more suitable re-provision is protected within the transfer agreement. Any change of use would require the Council's consent.
- 7.3 The following commercial premises are located at Abbott Road, Aberfeldy Street, Oban Street, St Leonard's Street and Teviot Street within the transfer area:

Abbott Road	43
Aberfeldy Street	25 27 29 31 33 35 36 37 38 39 40 41 42 43 44 45/47 46 49/51 50 53 55 48
Oban Street	2
St Leonard's Road	76 78

7.4 The Policy Framework provides for the inclusion of integral commercial premises in the transfer in line with the latest CLG guidance. The rental income has been factored into the Tenant Market Valuation (TMV).

8 TERMS OF THE TRANSFER

8.1 The stock will be transferred subject to existing secure tenancies. Poplar HARCA has made legally binding promises to the tenants to ensure that the tenancy rights with Poplar HARCA are effectively the same as those they currently have with the Council. These include a preserved Right to Buy and an agreement not to seek possession under grounds 8 and 11 of the Housing Act 1988 which relate to the mandatory grounds on which the Court must order possession for assured tenancies. The only tenancy right not transferred by statute is the Right to Manage. Poplar HARCA will also be required to keep all the promises made to transferring tenants regarding the works proposed during the consultation process.

8.2 The following issues will be negotiated with Poplar HARCA in accordance with the policy framework: -

8.2.1 TUPE transfer of staff, both direct where a legal right has been identified and through direct recruitment through indirect pools. A financial penalty will apply if the RSL fails to recruit its indirect quota.

8.2.2 Poplar HARCA are not applying for admitted body status as they already are members of two Pension schemes that are broadly comparable to the Council's Pension Scheme. These schemes satisfy the requirements of TUPE.

8.2.3 Current tenant arrears to be purchased by Poplar HARCA with the Council retaining responsibility for former tenants' arrears and leaseholder service charge arrears.

8.2.4 Poplar HARCA to continue to provide temporary accommodation to the Council by leasing back those properties occupied as temporary accommodation at the date of transfer to the Council if this is required.

8.2.5 A sharing agreement for Preserved Right to Buy receipts to take effect five years from the date of transfer in compliance with CLG guidance to minimise gap funding requirements.

8.2.6 Poplar HARCA may extend agreements to purchase services from the Council, subject to the efficiency and effectiveness of the services provided. In each case the price to be calculated to cover the cost of providing the service, including all overheads.

- 8.2.7 Poplar HARCA to participate in the Local Labour in Construction Scheme.
- 8.2.8 Poplar HARCA to remain a full partner of the Common Housing Register.
- 8.2.9 Council and Poplar HARCA to enter into a development agreement and VAT shelter approved by Customs and Excise, to enable the RSL to recover the cost of VAT for refurbishment work.
- 8.2.10 The provision of a claw back arrangement to provide specific arrangements with Poplar HARCA to share any unanticipated surpluses arising from later development on land forming part of the transfer.
- 8.2.11 A partnership agreement between the Council and Poplar HARCA, which will require the RSL to work with the Council on joint objectives such as Neighbourhood Management, tackling ASB and implementing key housing strategies such as the Homelessness Strategy.
- 8.3 The Council will be required to give business and environmental warranties covering information about the homes, tenants and leaseholders and staff to be transferred. The business warranties should be straightforward and in a similar form to those granted in previous transfers.
- 8.4 A specialist desktop environmental survey has been undertaken. This has concluded that the risks associated with contamination on the East India Estates are classified as low to medium risk.
- 8.5 This means that it should be possible for the Council to take out insurance against the risks of granting environmental warranties to Poplar HARCA. This is the same approach as taken for the Housing Choice transfers to date and will be subject to Poplar HARCA paying the insurance premium.
- 8.6 It has been agreed in principle with CLG that the cost of insurance can be factored into the Tenanted Market Value (TMV) of the Housing Choice programme.

9 OPEN SPACE

- 9.1 Under the provisions of the Local Government Act 1972, a local authority can only dispose of "Open Space" where it has advertised the disposal for two consecutive weeks in a newspaper circulating in the local area and considered any objections to the proposed transfer of land which may be made to them. The advert invites inspection from anyone who perceives themselves to be affected and gives them the opportunity to comment.
- 9.2 'Open Space' is defined in the Local Government Act 1972 and the Town and Country Planning Act 1990 as land "laid out to public gardens or land used by the public for recreation". Use for recreation covers any use, whether formal or informal.
- 9.3 In practice, housing open space should include land that is being managed and used for play areas, ball games areas, grassed and other planted areas. These should include grassed areas, shrub beds, hedgerows, rose beds, communal hard areas and playgrounds.

- 9.4 In this particular case, part of the land proposed for transfer is Public Open space, not Housing Amenity Land. This comprises 2011 square metres of Jolly's Green. These areas are shown on plan Appendix 3 (Brownfield Estate). Poplar HARCA's master plan for the Brownfield Estate Area proposes to build 35 new homes on these areas, which will form part of the "Choices Option" for residents of Balfron Tower and Carradale House described in paragraph 6.3. In exchange for building on this land, Poplar HARCA will apply for a stopping up order to close Andrew Street and undertake landscaping to this and the area immediately north of Carradale House to incorporate the combined 2537 square metres them into a reconfigured Jolly's Green. The area to be incorporated is shown as hatched and cross hatched on plan Appendix 3. The transfer contract will require Poplar HARCA to complete these works and then convey the land back to the Council. Given that the construction of the new homes will require planning permission, it is proposed that the transfer to Poplar HARCA of the 2 tranches of public open space identified on Appendix 3 be subject to outline planning permission first being granted.
- 9.5 Poplar HARCA's overall proposals across the 3 estates will be achieved without any reduction in Open Space albeit that some areas will be relocated during the regeneration programme.
- 9.6 An advert was placed in East End Life on 5th March 2007 This informed readers that the plans identifying the Open space and Housing amenity land to be disposed of were on deposit at the Housing Department Offices at Jack Dash House, 2 Lawn House Close, London E.14 9YQ and advised persons who wished to make written observations to send their comments to this address. The closing date for comments was noon on 2nd April 2007
- 9.7 No comments were received in response to the advert.
- 9.8 Prior to the advert being placed a petition was presented to Full Council on 28th February 2007. The covering statement on this petition referred to a lack of consultation with the wider area compared to that carried out with residents of Brownfield Estate. Of the signatories:-
- | | |
|----|--|
| 20 | Were from residents of the private homes in St Leonard's Road and Joshua Street that abut Jolly's Green) |
| 3 | Were from tenants from properties included in the proposed transfer to Poplar HARCA |
| 5 | Were from leaseholders from properties included in the proposed transfer to Poplar HARCA |
| 6 | Were from other addresses outside the proposed transfer area |
| 1 | Was from an address that it was not possible to identify. |
- 35 Total**
- 9.9 Those who were not tenants or leaseholders of the homes proposed for transfer would not have been included in the mailing of the formal consultation documents, which for tenants is a statutory process. However, Poplar HARCA did host a consultation event about the proposals for Jolly's Green, which was held on the green itself and took place in September 2006. The development proposals would also be subject to further consultation as a requirement of the Planning process. Further comments have been

provided by the lead petitioner in response to a second notice placed in East End Life set out in Section 10 of this report below.

- 9.10 Discussions are ongoing with Environment and Culture Services as to the amount of valuable open space that will need to be protected. Appropriate covenants will be incorporated in the transfer contract that will require Poplar HARCA to obtain the Council's consent to develop any open space subject to such covenants.

10 RIGHTS OF WAY

- 10.1 The transfer will incorporate all non-adopted estate roads within the estate boundaries in line with the Policy Framework. This means that all future repairing responsibilities will rest with Poplar HARCA.
- 10.2 There is no requirement to ensure that the Council secures preserved rights of way in perpetuity over these roads after transfer. Due to the provisions of the Land Registration Act 2002, where rights of way are required over the transferred land, the retained land of the Council which is to benefit from such rights of way will need to be specifically identified in order for such rights to be registered.
- 10.3 The construction of new homes may encroach upon the existing pedestrian rights of way of RTB leaseholders. Section 237 (1) of The Town and Country Planning Act 1990 allows for such private rights to be overridden where development is carried out in accordance with a planning permission. However this will only apply if the Council disposes of the land for planning purposes. To do this the Council must appropriate the housing land to planning purposes before disposing of it under S233 of the 1990 Act.
- 10.4 Poplar HARCA has therefore requested that the land which may be subject to leaseholders' rights of way be appropriated for planning purposes in accordance with the provisions of Section 122 of the Local Government Act 1972. Again, an advert to this effect is required.
- 10.5 As with the disposal of open space, an advert was placed in East End Life on 2nd April 2007. The closing date for comments was noon on 7th May 2007.
- 10.6 Two comments were received in response to this notice.
- i) The lead petitioner to full council referred to in Section 9 above, responded to the Appropriation Advertisement opposing development on Jolly's Green because the residents of the privately owned properties in St Leonards Road and Joshua Street have not been consulted and stating that the proper legal position would be to consult the residents whose properties about this land before any further binding decisions have been made.
 - ii) A resident from Mills Grove, which is adjacent to Jolly's Green wrote on behalf of the residents' association of 36 homes around the Green, to register their concerns with regard to the lack of consultation with residents in Mills Grove and Joshua Street.

Explanations of the consultation that has taken place to date and that required for any future planning application have been sent to both respondents.

11 COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 11.1 In broad terms, the revenue consequence of the transfers will be a reduction in income such as rents and service charges but also a reduction in expenditure such as on repairs and housing management. The approved Housing Revenue Account estimates include the effects of transferring these estates.
- 11.2 The Council will be expected to repay a proportionate amount of its loan debt on transfer but financial assistance will be provided by the DCLG through the arrangements for one off payments to meet overhanging debt. This will be on the same basis as previous transfers. It is anticipated that the DCLG will issue a special housing subsidy determination to reflect the reduction in outstanding debt
- 11.3 With reference to the issue of capital receipts from future right to buy sales, in compliance with DCLG guidance, Poplar HARCA will keep 100% of receipts for five years in order to maintain its viability, prior to full sharing with the Council.

12 Efficiency Statement

- 12.1 The transfer of stock to Poplar HARCA will result in £45m of external funding to be invested in the regeneration of the estate and the achievement of the decent homes standard.
- 12.2 Stock transfers are based on the Authority undertaking a valuation according to CLG Tenant Market Valuation model. Transfers require the Secretary of State's consent and in considering an application takes into account that – “the estimated Exchequer and public expenditure costs represent value for money”.

13 CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)

- 13.1 The Transfer of an estate with secure tenants in place can only take place with the Consent of the Secretary of State under the Housing Act 1985, following a positive ballot (the results of which are set out in Para 3.4). This consent has not yet been given and the transfer is lawful only if the Consent is issued. When deciding whether or not to grant consent, the CLG will have regard to whether the Council has adequately consulted with any secure tenants under the requirements of Schedule 3 of the Housing Act 1985.
- 13.2 It is expected that such Consent will include consents under s32 Housing Act 1985 (to dispose of Housing land) and section 25 Local Government Act 1988 (to give resources to a RSL for nominal consideration).
- 13.3 Sections 122 (2A) and 123 (2A) of the Local Government Act 1972 require disposal and appropriation of "open space" to be advertised in a local newspaper in two successive weeks. Open Space is defined as "land laid out as a public garden or used for public recreation." Informal use counts as much as formal designated use. As explained at paragraph 8.5 above all observations and comments received in response should be considered by Cabinet before determining whether to authorise

disposal of Open Space. There is no presumption for or against disposal. Members should consider the overall best interests of the Borough as a whole.

- 13.4 It is proposed that the Council will give warranties (including environmental warranties) to Poplar HARCA about the information supplied to Poplar HARCA concerning the land. This is necessary to protect Poplar HARCA and is normal practice in such cases and has been done on many past transfers although such warranties could involve the Council in potential cost if the information was very seriously incorrect. To protect the Council an insurance policy paid for by Poplar HARCA will cover the Council against any future claims in respect of the environmental warranties for the next 10 years. The Council still retains risk for up to eight years after that, although the possibility of any claims against the environmental warranties are likely to become apparent in the early years during the redevelopment of the estates.
- 13.5 The TUPE transfer of staff arises under legislation and cannot be avoided in appropriate cases. The other proposals in the report are standard terms in such schemes and are appropriate to give effect to the Transfer. Whilst the RSL is not legally obliged to accept the Council's proposals on indirect TUPE the Council will require agreement to these proposals as part of the general commercial package.
- 13.6 Some of the proposals set out in this report will be subject to further negotiations with Poplar HARCA. It is therefore appropriate and advisable that authority to negotiate on precise terms of the above proposals and on outstanding issues is delegated to the Director of Housing Management after consultation with the Director of Resources.
- 13.7 A compulsory purchase order can be made for housing purposes under Part II Housing Act 1985. A qualitative or quantitative change in the housing stock is required to be proved. The transformational change being sought in this report provides a compelling case for making a CPO.
- 13.8 A compulsory purchase order of a dwelling interferes with the Article 6 Human Right to the home of the occupier and breaches the right to property held by the owner of the dwelling under Article 1 of the First Protocol. However the Human Rights Act and case law makes clear that such breaches can be justified if the proportionate gain in the overall quality or quantity of housing is in the public interest and overreaches the individuals rights provided the individual is treated fairly. It is well established that the compensation regime in England is fair and lawful. Where there is a compelling case to make the CPO in the public interest then it should normally be that the balancing exercise needed will also come out in favour of approving the CPO. This is a matter which the Secretary of State must consider when deciding if to confirm the CPO and consequently there is no need for councillors at this stage to strike this balance. However it is likely from the information in this report that the housing gains to be made will provide the compelling case to justify a CPO and justify the unavoidable interference with the human rights of the individuals concerned.

14 EQUAL OPPORTUNITIES AND ANTI-POVERTY IMPLICATIONS

- 14.1 Poplar HARCA has adopted an Equal Opportunities Policy and will implement procedures that reflect the needs and experiences of the community it will serve.

14.2 The improvements to the Estate through transfer will provide a better quality of life for residents. The proposed stock transfer to Poplar HARCA is to enable resources to be secured to improve housing conditions. Better housing, more say for residents in the management of their homes and measures to promote community development and economic regeneration are central to Poplar HARCA and these factors are key to reducing poverty in the transfer areas.

15 SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

15.1 The backlog of investment required to the Council's Housing Stock and lack of resources means that much of the Housing stock suffers from poor thermal efficiency resulting in higher than necessary fuel usage. Only if sufficient resources are identified will it be possible to introduce improvements. Housing Choice currently offers the best opportunity for delivery.

16 RISK MANAGEMENT IMPLICATIONS

16.1 The key risks arising from this report are: -

Risk	Mitigating Actions
Failure to complete the transfer	<ul style="list-style-type: none"> • Transfer policy framework in place • Project Plan to ensure all transfer requirements are addressed • Delegated authority sought to agree outstanding issues.
Failure to deliver the promises made to residents	<ul style="list-style-type: none"> • Covenants put in place • Partnership agreement put in place • Monitoring and reporting arrangements put in place.

APPENDICES

Appendix 1 Schedule of Residential Properties within the East India Estates transfer area.

Appendices 2 A & B, 3 & 4 Plans of the East India Estates

Appendix 5 List of leaseholders