

<b>Cabinet</b> 4 March 2015	 <b>TOWER HAMLETS</b>
<b>Report of: Aman Dalvi, Corporate Director  Development &amp; Renewal</b>	<b>Classification:</b>  Unrestricted
<b>Handover (disposal) of land interests acquired by Compulsory Purchase Order (CPO) to and on behalf of Swan Housing (Hackworth Point &amp; Mallard Point).</b>	

<b>Lead Member</b>	<b>Councillor Rabina Khan, Cabinet Member for Housing and Development</b>
<b>Originating Officer(s)</b>	Robin Sager
<b>Wards affected</b>	Bromley North
<b>Community Plan Theme</b>	<b>A Great Place to Live</b>
<b>Key Decision?</b>	No

## Executive Summary

This report explains that it is necessary to formally transfer, to Swan Housing, 12 land interests, following the completion by the council of a Compulsory Purchase Order (CPO) process on the former Crossways Estate (now known as “Bow Cross”). There is a long-standing requirement for the Council to transfer these interests to Swan, as part of the estate transfer/regeneration agreement in 2005.

This is a paper exercise to formally end the leasehold interests of these properties, which are still registered at the Land Registry following their vesting to the Council at the conclusion of a CPO process in 2009. Although the council was contractually obliged to complete the CPO on Swan’s behalf, Swan paid the owners compensation for the properties and successfully took possession.. The action required will rectify the anomaly wherein the council retains titles to properties which have actually been acquired by Swan. This action is essential to enable Swan to take full ownership of the properties, which include flats on which private sales are due to complete, as the final stage of the regeneration programme.

## **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Confirm the transfer to Swan Housing at nil consideration, of the following land interests acquired under Compulsory Purchase Order, for the purpose of delivering the Crossways Regeneration Scheme (Single Regeneration Budget 6):
  - No. 10 Hackworth Point, Rainhill Way, E3 3ET;
  - No. 91 Hackworth Point , Rainhill Way, E3 3EX;
  - No's. 6,12,16,26,31 Mallard Point, Rainhill Way E3 3JE;
  - No's 53,56,59,68,91 Mallard Point Rainhill Way, E3 3JF
2. Note that any transfer of property to Swan will require the consent of the Commissioners appointed by the Secretary of State.

## **1. REASONS FOR THE DECISION**

- 1.1 The Council made the CPO on behalf of Swan, in support of its regeneration programme. The decision to transfer the land interests only arises because they have been vested in the council on making the General Vesting Declaration (GVD). All costs involved are being met separately by Swan and the Council does not have any interest in retaining these sites, since they form part of a major regeneration on an Estate owned and managed by Swan, following large scale voluntary stock transfer in 2005.
- 1.2 There is a contractual requirement for the Council to transfer these interests to Swan, as part of the estate transfer/regeneration agreement in 2005.

## **2. ALTERNATIVE OPTIONS**

- 2.1 There is no alternative option. These properties have only been technically vested with the council. Any delay in handover will have critical cost implications for the Registered Provider. The regeneration work carried out by Swan has fulfilled commitments made to the local community and to the council, when the estate was approved for stock transfer.

## **3. DETAILS OF REPORT**

- 3.1 Authorisation to compulsorily purchase leasehold properties in Hackworth Point and Mallard Point was provided by Cabinet on 7 November 2007 (Agenda Item 7.1).
- 3.2 The CPO was made by the Council as "Acquiring Authority", to support Swan's regeneration in the area. The CPO process was deemed necessary

as a last resort, following repeated attempts by Swan Housing to consult and negotiate to seek possession of the remaining leasehold interests. Tower Hamlets Council used the compulsory purchase route to avoid disruption and jeopardy to the refurbishment programme to two tower blocks. A third block had already been through an earlier CPO process following Cabinet approval (February 2005), and was refurbished with priority to rehouse existing tenants and leaseholders from this estate. All land interests acquired under the earlier CPO were transferred to Swan, exactly as proposed now.

- 3.3 The council was required under the terms of the stock transfer to run a CPO process to facilitate Swan's regeneration of the estate, as part of the Council sponsored SRB6 regeneration process, and to transfer those titles once vested with the council as the CPO Acquiring Authority. Normally now the onward disposal to an RSL partner would be covered in the Cabinet decision at the point that a CPO is agreed, but this was omitted at the time and a formal decision to dispose is thus required.
- 3.4 The Secretary of State for Communities and Local Government recommended that the London Borough of Tower Hamlets Crossways Estate (Hackworth Point and Mallard Point) Compulsory Purchase Order 2009 be confirmed without modification following a Public Inquiry.
- 3.5 The acquisition and CPO costs were met fully by Swan, and there is no financial implication for the Council. Any delay in transferring these interests to Swan will have critical cost implications for Swan, whose business plan for the regeneration of the estate was underpinned by the disposal of Mallard Point for cross-subsidy funding.
- 3.6 The Council made a General Vesting Declaration (GVD) on the land interests, which at that time had not been acquired. Dated 23 December 2009, the GVD's sum total of cumulative surrender values compensated by Swan was £1,172,234. Added costs were later incurred by Swan for two of the properties once full and final settlement had been negotiated, with a final total of compensation being **£1,195,351**.
- 3.7 Although the former leaseholders were compensated by Swan in compliance with CPO good practice, the leases vested in the Council as the statutory body exercising CPO powers. There is no cost implication to the Council as the costs of acquiring the properties and making the CPO were paid for by Swan.
- 3.8 All of the sites vested with the Council cannot be transferred under Director's Action provisions as whilst their individual purchase values fall below the £250,000 threshold, cumulatively the value of the sites exceeds this.
- 3.9 As a former Tower Hamlets Council owned and managed housing estate, Crossways (now known as "Bow Cross") transferred to Swan Housing on 21st March 2005 following a 'Housing Choice' large scale voluntary stock transfer ballot of tenants and leaseholders in October 2004. In a process managed by

the Electoral Reform Society 90% of tenants and 88% of leaseholders voted 'Yes' to the transfer.

The following clauses in respect of the council's obligation to make a CPO were incorporated into the Transfer Agreement for the disposal of the Crossways Estate to Swan, which was approved by Cabinet 9 February 2005. ('The Company' being defined as 'Swan Housing Association Limited'). The last sentence of clause 16.3 refers to the disposal for which this approval is being requested:

*16.1 The Council will if requested by the Company resolve to make the Compulsory Purchase Order in relation to any Third Party Interests relating to any part of the Property and will proceed with due diligence towards the Compulsory Purchase Order and apply for confirmation by the Secretary of State. The Company will pay the Council's CPO Costs as soon as reasonably practicable after request from the Council.*

*16.2 Following the making of the Compulsory Purchase Order the Council will use all reasonable endeavours to have the Compulsory Purchase Order confirmed by the Secretary of State. Following the date when the Compulsory Purchase Order becomes operative or (if later) free from any legal challenge the Council will vest in itself or otherwise acquire the CPO land and immediately following such acquisition will subject to the payment by the Company of any outstanding CPO Costs transfer any freehold or leasehold interest in the same to the Company.*

*16.3 Notwithstanding the foregoing provisions the Company will use all reasonable endeavours to negotiate and acquire by agreement all Third Party Interests as expeditiously as possible and, subject to payment by the Company of all reasonable and proper acquisition costs, including legal and other costs, which the Company have approved (such approval not to be unreasonably withheld or delayed prior to the covenant incurring the same) the Council shall acquire such interests and as soon as reasonably practicable following such acquisition will transfer any freehold or leasehold interest in the same to the Company.*

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- 3.10 The CPO was confirmed by the Secretary of State following a Public Inquiry held on 12 August 2009, The inspector on behalf of the Secretary of State for Communities and Local Government recommended that the LBTH Crossways Estate (Hackworth Point and Mallard Point) Compulsory Order 2009 be confirmed without modification as there was 'a compelling case in the public interest for the Order to be made'. Resident leaseholders were rehoused by Swan Housing in fully refurbished homes in neighbouring Priestman Point at no extra cost to them. Costs of land acquisition, compensation, and of making the CPO, were paid by Swan Housing.
- 3.11 The Council has not paid monies to acquire these sites and it was intended to CPO them for the purposes of transfer to support Swan Housing's scheme.

There is no financial implication for the Council in transferring the vested land interests. Valuations for disposal purposes were made by Swan Housing's valuer, acting as the council's agent. The Hackworth Point properties, already refurbished and let as social rented homes, will be retained under Swan Ownership. The Mallard Point properties were agreed with Tower Hamlets Council at the point of transfer to be refurbished for private sale, to cross subsidise the regeneration scheme. This penultimate phase of the project is nearing completion. The transfer of the titles acquired by the council through CPO is essential to enable Swan to take full ownership of those properties, including flats on which private sales are due to complete in Mallard, as the final stage of the regeneration programme.

- 3.12 The regeneration programme, which is now almost completed, fulfilled commitments made jointly by the council and Swan to the local community when the estate was approved for stock transfer in 2005: Swan has delivered the overall scheme, achieving 489 affordable homes (457 for social rent), including an additional 100 homes which were switched from private to affordable tenure, thus exceeding the targets for the scheme. An SRB theme of 'Connecting Communities' has reconnected the estate with the wider neighbouring communities by footpath improvements and a new strategic access road. A new housing office serving the estate is already operational as is a new community facility.
- 3.13 The scheme at Mallard for refurbishment to sell will be completing in December 2014. Swan now needs to issue completion of sale notices to the purchasers of the flats which have been pre-sold. Swan must have legal title for all of these properties or it would be in breach of contract with those buyers.
- 3.14 Income from the Mallard Point units for sale is critical to Swan's business plan and to achieving the cross subsidy that underpinned their forward-funding for the social and community elements of the regeneration.
- 3.15 Another potential knock-on effect of failing to transfer these titles now, apart from raising issues around breach of contract by the council, would, Swan argues, be the risk of delay to other Swan projects, including Swan's investment at Blackwall Reach in Tower Hamlets.
- 3.16 On 17 December 2014, the Secretary of State pursuant to his powers of direction in section 15 of the Local Government Act 1999 appointed commissioners to oversee specified functions at Tower Hamlets. The Council will be required to obtain the prior written agreement of the commissioners before entering into any commitment to dispose of, or otherwise transfer to third parties any real property other than existing domestic property for the purposes of residential occupation. Therefore the commissioners will need to consent to the proposed disposal of the land interests to Swan Housing. This process does/did not prevent a decision being made in Cabinet, but rather adds an additional approval requirement which will still have to be obtained.

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1. In November 2007, Cabinet approved a programme to support three separate regeneration schemes being undertaken by Poplar HARCA, East End Homes and Swan Housing Association. The proposed regeneration schemes required the acquisition of various leasehold property interests, and it was agreed that the Council would begin a Compulsory Purchase Order process on behalf of the Registered Social Housing Providers to acquire these leasehold interests in case settlement could not be reached through negotiation.
- 4.2. The report included the former Crossways estate (now known as Bow Cross), owned and managed by Swan Housing Association. This report relates to the Compulsory Purchase Order process for Hackworth Point and Mallard Point on the estate.
- 4.3. As part of the CPO process, a General Vesting Declaration was put in place on 23 December 2009 (paragraph 3.6). After this date twelve leasehold properties were acquired, meaning that the leases for these properties had to be vested in the Council. The properties concerned are listed in Appendix 1.
- 4.4. This report seeks approval to formally transfer the interests in the twelve properties back to Swan Housing Association. There are no financial implications for the Council – the costs of the purchases and associated compensation packages have been borne by Swan, and in addition the cost of all officer time involved in the CPO process will also be recharged to the organisation.

#### **5. LEGAL COMMENTS**

- 5.1 Pursuant to its power under section 17(1) of the Housing Act 1985, the Council made the compulsory purchase order as detailed earlier in the report. The power conferred by subsection (1) includes power to acquire land for the purpose of disposing of houses provided or to be provided, on the land or as in this case of disposing of the land to a person who intends to provide housing accommodation on it.
- 5.2 Section 32 of the Housing Act 1985 provides power to dispose of land held under the provisions of the Housing Act 1985. However, such disposal shall not be made without the consent of the Secretary of State.
- 5.3 The General Housing Consents 2013 allow certain disposals to be made without the specific consent of the Secretary of State provided such disposals are at market value (except in the case of vacant land). The proposed disposal is at nil consideration given that SWAN have incurred all the acquisition costs and the Council has a commitment to transfer the properties back to SWAN in order for it to deliver the regeneration of the estate. Given that the purpose of the Council exercising its CPO powers was to support the regeneration of the estate, there is an argument that there is a nil market

value in respect of this transfer as the Council is unable to transfer the property to a third party without breaching its commitment to SWAN. If that were not the case the consent of the Secretary of State for this disposal may be required.

- 5.4 On 17 December 2014, the Secretary of State pursuant to powers under sections 15(5) and (6) of the Local Government Act 1999 appointed Commissioners whose prior written agreement will be required to the disposal of property other than existing single dwellings for residential occupation. If the Mayor agrees the proposed disposal to Swan, then consent will also need to be obtained from the Commissioners.
- 5.5 A decision may relevantly be a key decision for either or both of the following reasons: (1) it involves significant expenditure having regard to the Council's budget for the service or function in question (the financial test); or (b) it will have a significant effect on communities living or working in an area comprising two or more wards in the borough (the community impact test).
- 5.6 In this instance, it is open for the Mayor to take the view that the proposed transfer to Swan Housing is not considered to be a key decision. In terms of the financial test, the report makes clear that the costs of the purchase were met by Swan Housing and there is no financial implication for the Council. In terms of the community impact test, the original decision to authorise compulsory purchase in support of the regeneration scheme may well have had a relevant significant impact. However, it may reasonably be considered that authorising the previously contemplated transfer of properties to Swan Housing, in order to enable the final stage of the regeneration programme to complete, will not itself have a significant impact on communities in two or more wards.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1. This scheme will contribute to One Tower Hamlets objectives. The three objectives are to reduce inequalities; ensure community cohesion; and, strengthen community leadership.
- 6.2. On **reducing inequalities**, the scheme has led to an increase in affordable housing on the site by providing units at social rent and for shared ownership. There has also been the creation of local jobs in the construction and management processes, and training for employment.
- 6.3. On **ensuring community cohesion**, the Registered Provider has been working with community representatives to facilitate the regeneration project, and minimise disruption. The new scheme has already achieved a transformational change.
- 6.4. On **strengthening community leadership**, the Registered Provider continues to work closely with residents. The successful redevelopment of

the Crossways/Bow Cross Estate is predicated on continuing successful engagement with residents and other local stakeholders.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 New homes were built and existing refurbished to modern standards to reduce energy consumption per home and improving environmental sustainability. A redesign of the estate was carried out to maximise the use of open space and create private gardens for some of the new homes.

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1. The action proposed will address the risk of delays if the sites acquired on Swan's behalf through CPO are not handed over. The Council approved and managed a CPO process expressly to support the Crossways Estate (Bow Cross) regeneration scheme. The Secretary of State deemed that a Public Inquiry was necessary but following this was satisfied it's use was warranted and necessary, with 'a compelling case in the public interest for the Order to be made'. Failure to hand over the sites now would undermine the council's justification for having run a CPO. These properties have only been technically vested with the council.
- 8.2. A knock-on effect of failing to transfer these Titles, apart from raising issues around breach of contract by the council, would be delays in starting or completing other projects within the borough, including Swan's investment at Blackwall Reach.

## **9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 9.1 The large scale regeneration of the estate allowed a comprehensive redesign to address crime and disorder concerns. Whilst three tower blocks have been retained, a series of interconnecting raised walkways were removed which had been detrimental to personal safety, main entrances moved to the ground floor and street level properties introduced overlooking what was previously a secluded estate road encouraging safer pedestrian movement and reducing the risk of flytipping. A number of garages separated from the residential area were removed which had been regularly broken into, along with another garage area overlooked by the towers but deemed unsafe to use by the fire brigade.

## **10. EFFICIENCY STATEMENT**

- 10.1 The Crossways (SRB6) Regeneration attracted government funding which together with support from Tower Hamlets Council and Swan funding (including from the sale of Mallard Point properties) is enabling improvements including the provision of 489 affordable homes (including for 457 for Social

Rent). Without this external funding, Tower Hamlets Council would have incurred considerable expenditure in bringing up to 298 homes to Decent Homes Standard.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- Decision Sheet :Cabinet 7 November 2007
- Report Pack : Cabinet 7 November 2007

### **Appendices**

- List of vested properties and compensation values

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- NONE

### **Officer contact details for documents:**

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