

**LONDON BOROUGH OF BRENT****Executive - 12 April 2005****Report from the Director of Housing**

For decision

Wards affected:  
**Kilburn, Queens Park**

Report Title:	<b>Proposed Allocations Policy for the South Kilburn Demonstration Homes</b>
---------------	--

Forward Plan Ref: HSG-O5/06-38

**1.0 Summary**

- 1.1 Officers are seeking Members' approval for a departure from current policy when allocating the twenty new homes being built on Albert Rd. Members should note that the whole raison detre for the delivery of the Demonstration Homes is to prove that the Master Plan is fundable, viable and deliverable.
- 1.2 Members will be reminded that the Demonstration Homes are the first new homes built by the Council for over 20 years and are part of the regeneration programme for South Kilburn.

**2 Recommendations**

2.1 That Members:

2.1.1 Approve the variation of the Allocations Scheme to incorporate the allocations process to the Demonstration Homes. This is to ensure that it is seen as the first phase of the regeneration programme. The changes are as follows:

- (a) The 20 demonstration homes built at Albert Road, South Kilburn will be ring-fenced for allocation to current secure tenants of the Council living on the South Kilburn Estate who are already registered to transfer.
- (b) The homes vacated by those who move from within the South Kilburn Estate to the Demonstration Homes will be ring-fenced for allocation to current secure tenants of the Council living on the South Kilburn Estate who are already registered to transfer.
- (c) In respect of any vacancies created by those moving from existing South Kilburn estate properties to the demonstration homes, that the Director of Housing have discretion to let the properties on a non-secure basis, provided that the properties are due for demolition within 12 months of occupation.

- 2.1.2 Delegate to the Director of Housing the discretion to allow the demonstration Homes to be treated as major works voids for the purposes of assisting secure tenants to move into their new home.

### 3. Detail

#### Introduction

- 3.1 The Executive gave its approval on 26 April 2004 to vary the MACE contract to allow it to project manage (as construction manager) the building of 20 units to demonstrate the intentions of the Masterplan. SKNDC will be funding the development of these units at a cost of approximately £3.7m on Council land.
- 3.2 To support a Construction Management approach, the Council entered into a number of agreements namely, a construction management contract (with MACE), a number of trade contracts (with various trade contractors) and a number of consultancy agreements (with various professional consultants).
- 3.3 The 20 new-build units are to be completed by the spring of 2006. The residents of the 20 units will have Council tenancies up to the point of which any transfer is agreed. These residents can, if they are Secure Tenants of the Council, be included in any stock transfer ballot. BHP will provide housing management services until the Delivery Partner negotiation process is complete and any transfer effected.
- 3.4 Members will be reminded that the whole intention of the Demonstration Homes project was to serve two purposes they were:-
- 3.4.1 **a) To build 20 units in line with the Master Plan proposals.** These homes will enable the partnership to test the assumptions and specifications of the homes proposed in the masterplan as well as demonstrate to residents the quality of homes, and the environment they can expect prior to a possible transfer ballot in 2006. The project will also provide opportunities for a number of residents to be fully trained in the processes of procurement, construction, address future skills requirement and decision making in implementing the masterplan. The project would also assist in highlighting the key issues associated with the health, crime, employment & income and education which need to be addressed by the masterplan. The proposed 20 units will range between 1-4 bed, and the experience of dealing with the 20 units will give those involved a valuable insight into such issues as allocations, housing management and sustainability of the future proposals. In short it will be a learning opportunity before embarking on the bigger scheme
- 3.4.2 **b) To provide a template for resident's involvement in the design and delivery of the future homes in South Kilburn;** Brent Council and its partner South Kilburn NDC wants to ensure that residents are at the heart of the improvements delivered in South Kilburn. This project provided training and development experiences for 17 residents in the design, construction, delivery and management process for the 20 units. Its aims are to increase residents' capacity for decision making throughout the delivery of the South Kilburn Master Plan

#### Background

- 3.5 This report seeks Member approval for the allocations process for the demonstration homes in Albert Rd, South Kilburn.
- 3.6 The Council is the local housing authority with housing responsibility for the South Kilburn area under the s1 of the Housing Act 1985. The South Kilburn New Deal for Communities Partnership Board ("SKNDC") was established in August 2001 to manage

a £50.06m NDC programme over a ten year period to 2011. Of the £50.6m, £21m was attributed to Housing and Built Environment projects. The Council is the Accountable Body (to the Government Office for London or "GOL") for the proper conduct of the SKNDC, particularly in relation to its financial affairs.

- 3.7 The SKNDC Partnership Board is made up of 9 elected residents, representatives from statutory bodies (including the Council's Director of Policy & Regeneration and a ward Member for Kilburn), voluntary organisations and the local youth. A Masterplan for the South Kilburn Area was commissioned from the appointed consultants, MACE by the SKNDC in 2002 using some of the NDC programme funding. Given that the Council is responsible for the South Kilburn area, that the SKNDC is an unincorporated body and given the Council's Accountable Body status, the MACE contract (being the Contract pursuant to which the Master Plan was procured) is actually with the Council, rather than SKNDC.
- 3.8 The development of the Masterplan was based on local partnership working between the SKNDC Partnership Board and the Council. The on-going role of central government agencies should also be acknowledged. Having approved funding through the NDC programme for the regeneration of South Kilburn, GoL effectively thereafter acts as a 'delivery manager', ensuring compliance with the scheme regulations. The Neighbourhood Renewal Unit (or "NRU") acts as commissioner with a view to ensuring that the policy objectives of the NDC programme are delivered.
- 3.9 The Masterplan framework is central to achieving the Council's affordable homes and Decent Homes objectives and the SKNDC's social objectives concerning health, community safety, education and employment and to sustain these improvements through future management structures.

### **Demonstration Homes Allocation Process**

- 3.10 Under normal circumstances allocation of homes would normally be done in line with the Council's normal allocation processes; these are to advertise all vacancies to the residents and for prospective tenants to be chosen on the basis of housing need.
- 3.11 South Kilburn NDC and resident members of the Master Planning Steering Group have requested that the allocation to these units should be dealt with in a way in which it would raise residents' awareness of the beginning of the regeneration process. Officers have worked with its partners and the residents to come up with a solution for allocating the 20 units.

### **Options**

- 3.12 The allocations process for the 20 new homes required officers to consider various options. They are:-
- 3.12.1 **To treat the allocations process as per the existing procedures.** Officers considered that this option would not raise the profile of regeneration sufficiently as many residents of South Kilburn may not be able to gain access to the new properties. South Kilburn residents' expectations of the regeneration process would not be fulfilled in that the money to build the new homes is part of the regeneration funding. It could send out the message that South Kilburn residents would continually lose out in the regeneration process.
- 3.12.2 **To ring fence the allocations process to all South Kilburn tenants only.** Officers considered that this was too broad a scope and would be subject to challenge in that residents who were deemed to have lesser needs could benefit over a family who may have greater housing needs.

- 3.12.3 **To ring fence the allocations process to all secure South Kilburn tenants who have already registered for transfer.** Officers considered that this option would adequately cover the Council's and SKNDC's intention of raising residents awareness of the regeneration programme and demonstrate that things are being progressed in a fair and consistent manner.
- 3.13 In arriving at option 3, officers considered that certain principles would need to be agreed so that the Council would be able to robustly respond to any challenges that may be presented. The general principles have been agreed with the Master Planning Steering Group and with SKNDC are:-
- 3.13.1 That the allocation to the 20 new homes will be operated through the locata system and will be ring fenced to all secure tenants currently living in South Kilburn and are on the Council's general rehousing list.
- 3.13.2 That the allocations are made to secure tenants on the transfer list in accordance with the priority banding in which they are placed and that between those in the same band priority is given on the basis of waiting time.
- 3.13.3 All vacancies resulting from secure tenants moving into the new properties (in Albert Rd) will be first offered to an existing South Kilburn secure tenants until all vacancies have been let.
- 3.13.4 In respect of any vacancies created by those moving from existing South Kilburn estate properties to the demonstration homes, that the Director of Housing have discretion to let the properties on a non-secure basis, provided that the properties are due for demolition within 12 months of occupation.
- 3.14 Secure tenants from South Kilburn moving into the new homes will not be eligible for any compensation (usually known as home loss or disturbance payments) because they will be transferring rather than being decanted. Secure tenants from South Kilburn wishing to move under the under occupation scheme will be eligible as per the existing provision for them in the allocation scheme.
- 3.15 Due to the fact that no assistance with removals will be given, officers are also recommending that residents are given 3 weeks to organise their removals into the new property once it becomes available for letting. This in effect is already in operation under the major works void programme.
- 3.16 The use of the "major works" programme category is intended to assist residents in allowing sufficient time to arrange for registration and connection of new services (gas, electricity and water) and that it allows for a flexible approach to lettings.
- 3.17 The number of South Kilburn secure tenants who could potentially qualify for the new homes, and are currently registered on the Council's transfer list is in excess of 300 applicants. This will be further reduced by the families with bed size requirements above 5 bedrooms and for those who wish to move outside the area. However, it is anticipated that there will be a large take up rate in comparison to the normal lettings process.
- 3.18 Due to the fact that there is a current funding gap of £38.1m, officers consider that after the rehousing pool of South Kilburn secure tenants have been exhausted, it may be prudent to let any remaining vacancies in accordance with project needs (both commercial and social) which may include from time to time allocations made on a basis other than a secure/assured tenancy. This is to ensure that the commercial risks to the Council are managed and this will assist the scheme financially. However in exercising this discretion it is essential that the commercial needs of the project are balanced with

the socio/economic aspirations of the community and the role of the local authority in providing affordable homes generally.

- 3.19 The reason for taking this approach is that any remaining vacant properties (not including the demonstration homes) are likely to be included within the demolition programme. It may be that some of those properties could be within the first phase and could be due for demolition with less than a year remaining. It does not make commercial sense to introduce new tenancies for those properties, then having to pay compensation to decant those tenants. Officers are therefore requesting that the Director of Housing be given the discretion to allocate any remaining vacancies (after the South Kilburn re-housing pool has been exhausted) in accordance with project needs.
- 3.20 The programme for the demonstration homes has been adjusted and they are likely to be ready for letting in February 2006. Officers will need to identify the potential residents at least 6 months before the completion of the programme in order to allow for residents choice in fixtures, fittings and finishes. Time will also be required should a property need to be adapted to allow for a disabled tenant.

## **4 Financial Implications**

- 4.1 The Executive have received previous reports relating to South Kilburn Demonstration Homes in April 2004. There will limited financial implications on the Council as SKNDC is paying for the full cost of the development, which will be later claimed back should it become part of the delivery vehicle negotiations. The Council would have to pick up the cost for those who qualify under the under-occupation scheme.

## **5 Legal Implications**

### **Powers**

- 5.1 Section 167 of the Housing Act 1996 (as amended) provides that a local housing authority shall have a scheme for determining priorities and as to the procedure to be followed, in allocating housing accommodation. The section also provides that an authority shall not allocate housing other than in accordance with its allocation scheme, and that it shall give reasonable preference to certain groups of applicant including the homeless, persons occupying unsanitary and overcrowded accommodation, persons who need to move on medical or welfare grounds.
- 5.2 The Act allows the kind of ring-fencing proposed in respect of the demonstration homes, but the Code of Guidance requires that the Council must still give reasonable preference to the categories of applicants mentioned above. Within those categories it is lawful to prioritise applicants based on the length of time they have spent on the list.
- 5.3 The Act requires that any alteration to the Council's allocations scheme which reflects a major change of policy must be notified to those likely to be affected by it. As the proposals do not amount to a major change of policy, specific notification of the proposed change will not be required. If Members agree to the alteration it is however necessary for the Council to reflect that in the summary of the allocation scheme that it is required to publish, and to ensure that the full scheme is duly amended.
- 5.4 On the issue of granting non-secure tenancies, a local authority can grant a tenancy to a person in a property which it owns. According to sections 79-81 of the Housing Act 1985, a secure tenancy exists at any time if the following conditions are met: - the property is a dwelling-house, the landlord is a "prescribed body" (including local authority), the tenant is an individual, the tenant occupies the property as his/her only principal home, the property is let as a "separate dwelling" and the tenancy is not in an exempt category. The exempt categories of tenancies which cannot be secure tenancies are set out in Schedule 1 to the Housing Act 1985 (as amended).

- 5.5 Paragraph 3 of Schedule 1 to the Housing Act 1985 states that a tenancy is not a secure tenancy if the dwelling house is on land which has been acquired for development and the dwelling house is used by the landlord pending development of the land, as temporary housing accommodation. That paragraph allows the local authority to grant a non-secure tenancy for such a property, which is intended for development. The word “development” is defined by section 55(1) of the Town and Country Planning Act 1990 as “the carrying out of building, engineering, mining or other operations in, on and over or under land, or the making of any material change in the use of buildings or other land”. In these circumstances, it is lawful for the Director of Housing to grant non-secure tenancies on a short-life basis for the properties that have been acquired for development and are due for demolition within twelve months of occupation as suggested in 2.1.1(c) of the Report.

### **Housing Management and BHP**

- 5.6 The Council’s stock within South Kilburn is currently managed by BHP pursuant to the terms of a management agreement entered into on 1st October 2002. The Council has the necessary consent from central government for BHP to manage the stock identified as not being demolished as part of the regeneration of South Kilburn.
- 5.7 It was clearly understood by the Council and ODPM that BHP’s management of South Kilburn was not a long term arrangement when the Council applied for Round 2 ALMO funding: all parties anticipated a reduction in the stock to be managed by BHP. The management agreement does not anticipate the 20 demonstration homes. It is however unlikely that further consent is required from the Secretary of State to allow BHP’s management of the new units or give effect to any related variations to the management agreement. If consent does prove necessary officers will take steps to obtain it as soon as possible.

### **RTB issues**

- 5.8 The 20 demonstration homes will be available for secure tenants to purchase under the Right to Buy, subject to the usual qualifications.

## **6 Diversity Implications**

- 6.1 The diversity implications surrounding the allocations process have been fully considered and falls in line with the aspiration of creating sustainable communities. The proposals in this report have been subject to screening and there are no major impacts.

## **7 Staffing/Accommodation Implications**

- 7.1 There are no staffing implications within the report.

### **Background Papers**

#### **Demonstration Homes File**

Anyone wishing to inspect these documents should contact:

## **8 Conclusions**

- 8.1 Members should note that the whole raison detre for the delivery of the Demonstration Homes was to prove that the Master Plan is fundable, viable and deliverable. The allocation process is the next step to be tested and as part of that testing residents' views will be recorded. This will inform and potentially influence how residents vote in any potential ballot for the regeneration of South Kilburn.

Robert Johnson, South Kilburn Housing Project Director,  
South Kilburn Regeneration Office, 21 – 23 Peel Precinct, Kilburn  
London NW6 5BS

**Martin Cheeseman**  
**Director of Housing Services**