

	<p style="text-align: center;"><b>Executive</b> 14<sup>th</sup> July 2008</p> <p style="text-align: center;"><b>Report from the Director of Housing and Community Care</b></p>
<p style="text-align: right;">Wards Affected: ALL</p>	
<p style="text-align: center;"><b>Communal Digital TV Aerial for Council Dwellings</b></p>	

Forward Plan Ref: H&CC-08/09-02

## 1.0 Summary

- 1.1 The Brent Housing Partnership (“BHP”) Board has considered reports on the arrangements required to ensure that the Council’s dwellings that are served by communal television aerials are upgraded in order to be able to receive digital signals when the switchover from analogue to digital happens in London in 2012.
- 1.2 No government funding is available to meet the costs of this work. This report proposes that the capital investment required is met from prudential borrowing, and that tenants’ service charges are increased to meet the debt charges incurred and that leaseholders are recharged the cost of installation where possible.
- 1.3 The recommendations for funding in this report also include the blocks in South Kilburn that are subject to a vote about potential stock transfer, and the inclusion of purpose built blocks of flats without communal aerials (subject to consultation), but excludes individual or converted houses

## 2.0 Recommendations

- 2.1 The Executive approve the arrangements as set out in the report for prudential borrowing (of approx £1.2m) to meet the costs of upgrading existing communal TV aerials and installing communal aerials for purpose built blocks of flats without aerials, subject to consultation with all residents as set out in para 5.5, and in respect of blocks without aerials the provision of the digital TV service to each leaseholder be subject to individual leaseholders agreeing to pay the cost

2.2 Approval is given to increasing the current TV aerial service charge from 10 pence per week to between 70-80 pence per week (depending upon the number of blocks included in the scheme (see para 4.5)) to meet the debt charges on the loan, with the increase being implemented upon completion of the upgrade works.

### 3.0 Detail

#### Digital TV Options

3.1 All authorities who have not already done so will need to ensure that their communal systems are digital ready. There are three options to upgrade TV aerials:

There are three options to upgrade existing communal aerials:

- MATV (Master Antenna TV System)  
This is a basic aerial upgrade that will deliver both analogue and digital signals via terrestrial broadcasts. It will not receive satellite signals, which requires the installation of a satellite dish.
- IRS (Integrated Reception System)  
This system will provide both the basic upgrade as described for MATV and can receive digital terrestrial and satellite signals.
- IRS+ provided through a two cable system would enable residents to also access Sky+ service, and be able to watch different programmes on separate televisions, or to watch one programme whilst recording another.

For all options, residents will be able to access free to view channels, and can choose to pay for additional channels. Freesat, providing access to the largest number of free to view channels is only available through a satellite connection. The choice of additional channels available through subscription is different for digital terrestrial and digital satellite, and the widest choice is provided through satellite. Following consultation with residents and Area Boards, BHP is proposing to install an IRS+ system.

#### Communal TV Aerials

3.2 The following tables show the number of properties with and without communal TV aerials:

##### Properties including South Kilburn retained blocks

	Tenants	Leaseholders	Total
With Aerials	3010	1411	4421
Without Aerials	840	619	1459
<b>TOTAL</b>	<b>3850</b>	<b>2030</b>	<b>5880</b>

### South Kilburn properties (subject to transfer vote)

	Tenants	Leaseholders	Total
With Aerials	1407	197	1604

All Properties	Tenants	Leaseholders	Total
Total	5257	2227	7484

### Service Charges

- 3.3 Some blocks have already had their aerials upgraded but their service charge has not been increased. It is recommended that their service charges are increased, where necessary, at the same time as the remaining blocks are upgraded. It is not considered to be appropriate to back date this increased charge as the residents were not informed previously that there would be an increase.
- 3.4 The current weekly service charge of 10 pence contributes towards the cost of maintenance, and will need to be increased to meet the cost of borrowing to fund the installation of the upgrade to digital.

### Blocks Without Communal Aerials and South Kilburn

- 3.5 For those blocks currently without a communal aerial, it is proposed to consult with residents about arranging the installation as improvement work, and advising about the payment of a service charge.
- 3.6 Properties in South Kilburn will be subject to a vote about the potential transfer of the homes to another landlord, and responsibility for upgrading existing communal aerials will need to be reviewed in the context of the timing of the programme of work, and outcome of the vote

### Procurement

- 3.7 BHP will be responsible for procuring the contract to upgrade TV aerials. BHP's Officers are exploring arrangements for either procurement direct or through a framework to be established by the London Area Procurement Network (LAPN). In exploring arrangements, BHP's Officers are seeking to ensure that the selected route provides value for money and delivery in advance of the switchover date. Either route will require compliance with the European procurement rules, and consultation with leaseholders.

## 4.0 Financial Implications

- 4.1 Upgrading communal TV aerials to receive digital TV is a major item of capital expenditure, for which no specific provision has been made.
- 4.2 It is intended to recharge leaseholders the cost of installation after the work is carried out. Leaseholders comprise approximately one third of the households affected.
- 4.3 Tenants are currently charged 10 pence per week service charge for the maintenance of communal aerials, and leaseholders contribute to maintenance costs through their service charge.

- 4.4 The estimated cost of installation for the three upgrade options are:-
- a. Master Antenna TV System – £165 per dwelling, £1,235k total cost.
  - b. Integrated Reception System - £195 per dwelling, £1,459k total cost.
  - c. IRS+ - £230 per dwelling, £1,721k estimated total cost.

As set out in this report, following consultation with residents and Area Boards, BHP is proposing to install an IRS+ system. The full cost of installation of an IRS+ for all 7,484 properties is estimated as £1,721k. It is also estimated that £512k of this cost is recoverable from leaseholders (£230 x 2,227), subject to statutory consultation and agreement of leaseholders in regard to blocks without an existing communal TV service.

- 4.5 Prudential borrowing costs to fund the work to tenanted properties of £1,209k over 10 years at 6% can be met by increasing the current service charge to tenants from 10 pence per week to 70 pence per week. This is calculated on the assumption that all blocks without communal aerials, and the South Kilburn properties are included. If fewer blocks are included in the upgrade, following consultation, then the service charge required to service the debt may need to be 80 pence per week. Note that after 10 years (i.e. when the debt has been repaid), the tenants' service charges will be reduced back to the level required for ongoing maintenance.
- 4.6 Under the proposed arrangement, BHP would contract directly with the Contractor for the aerial upgrade work. BHP would pay the contractor direct, and would be re-imbursed by the Council through the Housing Revenue Account. The upgrade costs for tenants (approx £1.2m) will be met using Prudential Borrowing. The debt charges on the loan would fall to be met within the HRA, with those charges being funded by the tenants' Service Charges increase. The upgrade costs associated with leaseholders (estimated at £512k) will be recovered via leaseholder service charges.
- 4.7 TV aerials are accepted as an eligible service charge for the purposes of Housing Benefit.
- 4.8 It is anticipated that the proposed increases to tenant's service charges would be implemented towards the end of 2009 i.e. when the work has been completed. Officers consider that this increase to tenants' service charges will be outside the provisions for Rent Rebate Subsidy Limitation (as this increase relates to an improvement/enhancement to an existing service) and therefore the increase will have no impact on Housing Subsidy.

## **5.0 Legal Implications**

- 5.1 The Commonhold and Leasehold Reform Act 2002 sets out the requirements for consultation with leaseholders about major works, contracts and partnering agreements. Works requiring a contribution of

more than £250 per annum per leaseholder, or contracts for more than 12 months requiring a contribution of more than £100 per annum per leaseholder must follow prescribed consultation, as set out in section 20 of the Housing Act 1985 as amended and Regulation 5(2) and Schedule 2 of the Service Charges (Consultation Requirements) Regulations 2003. If such consultation is not carried out, the maximum amount that can be recovered from the leaseholders in respect of such major works is £250 per annum per leaseholder, but if the works relate to a contract of more than 12 months, the maximum that can be recovered is £100 per annum per leaseholder. Although estimated costs are expected to be below these thresholds, BHP will be consulting with leaseholders about the approach to procurement as a matter of good practice.

- 5.2 An amendment to s125 of the Housing Act 1985, contained in the Housing and Planning Act 1986 introduced the concept of 'improvement contributions', and enables a landlord to recover the cost of improvements as long as provision is made to do so under the terms of the lease. Lease amendments made approximately 18 months ago to new leases added a specific clause (7.2. (f)) enabling charges to be made to recover the costs of improvements. There is doubt as to whether previous leases contain suitable provisions. and therefore the agreement to the works with leaseholders, in blocks which do not have an existing aerial, will be required in order to enable the costs to be recovered. All leaseholders in blocks without communal aerials will be consulted about improvement work.
- 5.3 A case determined by the Leasehold Valuation Tribunal (LVT LON/00BK/LSC/2006/0445, City of Westminster –v- The Lessees of Taunton House and Reading House, 9<sup>th</sup> May 2007) accepted that '*a covenant to repair (and by analogy a covenant to keep in good condition) as requiring replacement of worn out items with their modern equivalent*', and that '*it is common sense, far cheaper and more cost effective.... to carry out the work now, rather than wait for the digital switchover in 2012 itself*'. In this case, the LVT allowed the application of the City of Westminster for a determination under section 27A of the Landlord and Tenant Act 1985 as to whether the costs incurred in respect of a major works project to the communal television system on an estate were payable via the service charge provisions in the relevant leases and whether such costs were reasonably incurred.
- 5.4 If the subsequent increase in service charges and charges (to cover the costs of the works) are challenged by way of an application to the LVT, the LVT has the jurisdiction under section 19 of the Housing Act 1985 to determine whether such charges are authorised by the relevant leases and to determine whether the costs and charges are reasonable. If the LVT decides that such charges are unreasonable, it has the power to reduce the amounts charged to leaseholders to a level which it considers to be reasonable.
- 5.5 Any increase in service charges to secure tenants will require formal notices to be issued. Notices can be served by the Council pursuant to section 102(1)(b) of the Housing Act 1985 as long as it relates to

payments in respect of services, which include the provision and upgrading of communal TV aerials. Proposals to install digital TV to blocks where no aerial is provided currently, and introducing service charges, will require consultation with tenants pursuant to the Council's consultation requirements under section 105 of the Housing Act 1985. It may be necessary to serve on those tenants currently without communal TV aerials preliminary notices and notices of variation under section 102(1)(c) and 103 of the Housing Act 1985 to enable service charges to be levied on tenants for installing communal TV services.

- 5.6 A contract for the upgrade of TV aerials is classed as a works contract under the Public Contracts Regulations 2006 ("the 2006 Regulations") which implement the EU public procurement regime into UK law. As detailed in paragraph 3.7, BHP's Officers are exploring arrangements for procuring the upgrade to TV aerials and may decide to procure direct or through a framework established by LAPN. Given the estimated value of the proposed contract is £1.7m, if BHP were to purchase directly, the contract would fall below the works threshold of approximately £3.5m for full application of the 2006 Regulations. Whilst any procurement process would not therefore be subject to full application of the 2006 Regulations, the procurement would still be subject to overriding EU principles of equality of treatment, fairness and transparency.
- 5.7 Given the estimated value of the procurement is in excess of £1m, the procurement and award of the contract is subject to BHP's Contract Standing Orders and Financial Regulations in respect of High Value Contracts. BHP's Chief Officers have delegated powers to authorise tendering and subsequent award of a contract if direct procurement is selected. If procurement through a framework is selected, BHP's Chief Officers have delegated powers to agree participation in a framework where satisfied it has been established in accordance with the 2006 Regulations and also to agree the award of a call-off contract.

## **6.0 Diversity Implications**

- 6.1 The digital switchover will impact on all households that use television and recording equipment. In order to maintain continuity of service all households will need to check that their televisions and recording equipment are digital ready, and that they can receive digital signals. Most televisions can be adapted by connection to a digital box.
- 6.2 The government is providing financial assistance to vulnerable households to help with the costs of adapting television and recording equipment to receive digital signals. Although this will not impact directly on the arrangements for work to upgrade communal aerials, it will provide practical help to those vulnerable residents who qualify to ensure that the equipment they need to connect to the aerial is digital ready.
- 6.3 There are no proposals to provide connection to other satellite services such as Eutelsat Hotbird or Turksat which provide access to a wider

selection of foreign language channels. This would require the installation of additional equipment and increase the overall costs.

## **7.0 Staffing/Accommodation Implications**

7.1 None

### **Background Papers**

Digital Switchover Good Practice Briefing by DigitalUK and CIOH

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