	<p style="text-align: center;">Executive 15th March 2010</p> <p style="text-align: center;">Report from the Director of Finance and Corporate Resources and the Director of Housing and Community Care</p>
<p style="text-align: right;">Ward Affected: Kensal Green</p>	
<p style="text-align: center;">Disposal of 79a and 79b Tubbs Road, NW10</p>	

Forward Plan Ref: F&CR-09/10-24

*Appendix 2 is **Not for publication ('below the line')** This part of the report is not for publication as it contains the following category of exempt information as specified in the Local Government Act 1972 namely information relating to the financial and business affairs of any particular person (including the authority holding that information)

The report has the following attachments:

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- Appendix 1 –location plan
- Appendix 2 -confidential**

1.0 SUMMARY

1.1 This report seeks Executive's consent to the disposal of the above property on the terms detailed in this report.

2.0 RECOMMENDATIONS

2.1 The Executive authorise the Head of Property and Asset Management to acquire and then dispose of the property in line with the following options:

- (i) to a Housing Association that has been nominated by the Director of Housing and Community Care
- (ii) to Brent Housing Partnership as part of the ALMO Settled Homes Initiative
- (iii) or in the event that disposal under options (i) or (ii) cannot be achieved; by way of public auction

- 2.2. The Executive delegates authority to the Head of Property and Asset Management to determine the final terms of the disposal, provided that the consideration obtained should be the best that can, in his opinion, reasonably be obtained and the other terms shall be such as he considers to be in the best interests of the Council.

3.0 DETAIL

- 3.1 The Council originally held a leasehold interest in this house, for 99 years which expired on 29th September 2008. The house has, at some point, been divided into 2 no. two bedroom flats. Utilising the Leasehold Reform Act 1967, the Council has enfranchised the above lease. This acquisition was approved by Executive on 6 April 2009. A site plan of the subject property is attached as Appendix 1

Thus in accordance with the Act the Council is now in the process of acquiring the freehold interest from the Landlord. The purchase sum reflects the imposition of the Act and takes account of assumptions which must be made during the acquisition process. The Leasehold Reform Act 1967 also provides for the purchaser of the freehold to pay the Landlords reasonable surveyors and legal fees.

- 3.2 The Council has previously used the Leasehold Enfranchisement Act to acquire the following properties in recent years (As shown in Appendix Two).

This strategy has enabled the Council to retain 58 Palermo Road within the HRA as a social housing unit as well as realise a profit on the two other properties which have been sold. The alternative would have been to accept the termination of these leases and upon expiry return them to the freehold owner with vacant possession. This would then entail the Council in finding alternative accommodation for any persons occupying the premises on a social rented basis as well as expose the Council to potentially substantial dilapidations claims.

- 3.3. Previously the Council has effectively ring-fenced the funds accruing from these particular disposals to fund other acquisitions. However the Council also took the decision to retain one of these units as a social housing property. Therefore the fund specifically available from previous enfranchisements is circa £86,000. Thus an acquisition of this property will leave a deficit of £48,000 which will be offset on the subsequent sale of the property
- 3.4 The Council's Head of Affordable Housing Development has advised that LHA-ASRA, which is a housing association with a local presence, has expressed an interest to acquire the property. LHA-ASRA has received a funding allocation to deliver an affordable housing scheme in the borough. Unfortunately, construction on this scheme has been delayed as the developer constructing the site has gone into administration. The Homes and Communities Agency (HCA) has agreed for LHA-ASRA to purchase some properties on the open

market using part of the social housing grant allocation made in respect of the aborted development. The HCA would require the properties to be acquired by the financial year. Given this, officers are recommending priority for the disposal of the property is given to LHA-ASRA if they are able to secure the social housing grant to partly fund the acquisition and are able to achieve completion on the sale by 31 March 2010. The disposal to LHA-ASRA will enable both properties to be retained with the borough's overall affordable housing stock.

- 3.5 The Head of Property and Asset Management will determine the final terms of disposal, which would as a minimum require LHA ASRA to acquire the property at Open Market Value. Officers are currently confirming whether LHA-ASRA accept the terms of disposal and are able to secure the HCA grant funding to Council's timescales for disposal can be achieved.
- 3.6 If ASRA are unable to agree terms, it is recommended that the property is disposed to Brent Housing Partnership (BHP) which has expressed an interest to acquire these properties at Open Market Value as part to the ALMO Settled Homes Initiative. Members will note that a report on the delivery of the ALMO Settled Homes Initiative was presented to the Executive Meeting held on 18 January 2010. The Executive approved an £8m prudential loan to be granted to BHP in order to fund the acquisition costs of delivering tranche 1 of Settled Homes Initiatives, comprising up to 50 properties. The negotiations on the loan terms are currently being finalised and given this, BHP is in a position to acquire these properties under their Settled Homes Initiative if LHA-ASRA are unable to proceed with the purchase. If the loan terms are not settled by the 31 March 2010, BHP could meet the acquisition costs from their existing reserves.
- 3.7 However, in the event that the property cannot be acquired by a LHA-ASRA or BHP, then officers will inform other housing association partners that the property is being disposed at auction on 12 May 2010.
- 3.8 The Council is currently awaiting receipt of draft transfer documents from the current owner of the property to enable it progress the acquisition of the freehold in readiness for the disposal.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The subsequent sale of this property is unlikely to take place in the 2009/10 Financial Year and therefore proceeds will not become available to offset the deficit of £48k arising on Enfranchisement sales until 2010/11. There is no provision within the 2009/10 accounts for this deficit. However, capital receipts derived from the sale of corporate properties combined with probable levels of slippage in the programme should nullify the impact of this deficit at year end until the sale completes. Members should note that a sale of at least one of the properties will be required if the general fund is not to subsidise an element of the initial purchase of the properties.

- 4.2 As per previous reports the Executive is asked to note that any net receipts from enfranchisement will be subject of a future report emphasising that housing stock is being reduced by the process and will need to be replaced with a view to using the receipts to (1) increase the number of homes over and above the amount that need to be replaced or (2) to acquire larger family homes where there is a shortage of supply.
- 4.3 Provision shall be made from the sale proceeds for the disposal costs, including legal costs, reimbursement of Landlord's costs of enfranchisement paid by Council on purchase, auction costs if necessary, and the administrative costs of Property and Asset Management
- 4.4 The sale will be negotiated on the basis that the best consideration for the asset will be achieved or placed in a public auction.
- 4.5 There is a risk that should these properties be put to auction and the Council's reserve price is not reached the consequential delay will result in a negative impact on cash-flow. However, this should be compensated by the capital receipt when received.
- 4.6 Members should note that the Local Authority (Capital Finance and Accounting) (England) Regulations 2003 states that capital receipts a local authority derives from the disposal of an interest in other housing land (non Right to Buy) must be "pooled" at a rate of 50%. However, the regulations also state that a local authority can treat such receipts as reduced by an amount up to the value of its available Capital Allowance at the time the specified amount is calculated. For the purposes of these regulations the Capital Allowance is a provision that reflects the authority's past and current forecast investment in regeneration schemes and the provision of affordable housing. Currently the council is maintaining a capital allowance significantly in excess of the forecast capital receipt and there will be no requirement to pool any of the derived income if Members elect to dispose of one or both of the flats.

5.0 LEGAL IMPLICATIONS

- 5.1 Under Section 123 of the Local Government Act 1972 the Council has a general power to dispose of properties including by way of the sale of the freehold or the grant of a lease. The essential condition is that the Council obtain (unless it is a lease for 7 years or less) the best consideration that is reasonably obtainable.
- 5.2 The land comprised in the disposal site is held by the Council for housing purposes consent is required from the Secretary of State for the disposal. However, in the event of a sale to an RSL the proposed terms of sale will be consistent with and within the scope of the General Consent 2005 issued by the Secretary of State under Section 32-34 of the Housing Act 1985

- 5.3 In the event that the property is to be sold at a public auction conditions have to state that the disposal is conditional upon the Secretary of State giving consent to the disposal of the dwelling.
- 5.4 A deemed consent will automatically apply if the successful bidder is an individual or individuals who have not previously purchased a vacant dwelling from the Council in the current financial year.
- 5.5 However a successful bidder at an auction may be an organisation which would not fall within the categories of purchaser which are covered by a deemed consent and therefore completion could not take place until the Secretary of State's consent has been obtained.

6.0 DIVERSITY IMPLICATIONS

- 6.1 The property is currently vacant, and therefore no diversity implications are considered to apply to the disposal process. Although, of course the creation of new accommodation available for social housing will contribute toward the provision of stock available to the Council's housing waiting list.

7.0 STAFFING/ACCOMMODATION IMPLICATIONS

- 7.1 As the property is currently vacant there are no staffing or accommodation implications at this time.

8.0 BACKGROUND PAPERS

- 8.1 Property Files of the Head of Property and Asset Management, Finance and Corporate Resources Department.

9.1 Contact Officers

- 9.1 James Young, Deputy Head of Property & Asset Management, Room 1A, Town Hall Annexe, Forty Lane, Wembley HA9 9HD.
- 9.2 Dipal Patel, Surveyor, Property & Asset Management, Room 1A, Town Hall Annexe, Forty Lane, Wembley HA9 9HD.

Any person wishing to inspect the above papers should contact the above officers on tel: 020 8937 1398 or 020 8937 1318.

Duncan McLeod
Director of Finance and Corporate
Resources

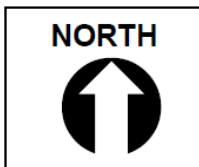
MARTIN CHEESEMAN
Director of Housing and
Community Care

Appendix 1

EXECUTIVE COMMITTEE
79 Tubbs Road, London NW10 4QX.



Premises shown cross hatched black.
Plan for information purposes only.
PREPARED BY PROPERTY & ASSET MANAGEMENT
"Unlocking the Potential"



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