

LONDON BOROUGH OF BRENT

Meeting of the Executive 13th October 2003

From the Director of Housing Services

Name of Ward(s)
Sudbury

Report Title: Barham Park Estate: Options for Regeneration

For: Action Above Below
Confidential Line

1. Summary

- 1.1 This report concerns Barham Park estate. A report commissioned from Hunter & Partners details the options for regeneration and possible funding sources. The report seeks the Executive's agreement to investigate the possibility of a redevelopment scheme involving the transfer of the estate to a partner Registered Social Landlord.

2. Recommendations

- 2.1 That the Executive notes that the best solution for the regeneration of Barham Park, having consulted the residents, is most likely to be complete demolition and new build.
- 2.2 That the Executive notes the appointment of PPCR as Independent Residents' Adviser or Residents' Friend organisation to provide independent advice to local residents.
- 2.3 That the Executive instructs officers to make enquiries of the Registered Social Landlords (RSL's) that the Council has made its Joint Commissioning partners, with a view to seeking their ideas on how to achieve the regeneration of Barham Park estate; and further instructs officers to report back on the potential for a Council/Almo-led funding solution.
- 2.4 That the Executive agrees the objectives in paragraph 6.25 as a basis for discussions with the RSL's.
- 2.5 That the Executive instructs officers to inform the Government Office for London of a possible stock transfer for Barham Park.

- 2.6 That the Executive instructs officers to bring a further report incorporating the following:
- a) detailed proposals and how they would impact on residents and the Council,
 - b) an examination of the options of prudential borrowing and stock transfer,
 - c) a financial impact and risk assessment and
 - d) criteria for selection of an RSL partner, if that is the recommended vehicle to secure the regeneration of the estate.

3. Financial Implications

- 3.1 The total cost, as so far identified, of the preferred option for complete demolition and new build is £29.5m. A fundamental objective of the exercise must be to devise a solution which will be self financing or able to attract in other funding sources. The Council has a limited number of options available to finance such expenditure: either the new prudential borrowing code or a partnership with an RSL to lever in private and possibly other sources of finance (or indeed a combination of both). Officers have not yet had time to evaluate the implications of the new prudential borrowing regime, which is not yet fully in place. It will be necessary to consider this option further, against the established mechanism of stock transfer. It is also important that any decant programme should avoid, as far as possible, any call on the Council's rehousing resources which would compete with homeless families, as this would have an adverse impact on the Council's temporary accommodation budget.
- 3.2 It is difficult at this early stage of the proposal to advise members on any potential financial impact on the Council. The aim of the proposal is to avoid or minimise any such impact. The report from Hunter and Partners advises that £6.1m could be available as cross subsidy, to fund the construction costs of 214 social housing units, from the sale of 66 dwellings built for sale. However, there are risks associated with this of which members should be aware:
- That for planning or other reasons, it may not be possible to build an additional 66 units for sale or that these may not achieve the £6.1m cross subsidy figure which Hunters have estimated
 - That Hunters estimated costs exclude a number of items as set out in paragraph 6.14. It is not clear how these costs would be met.
- 3.3 The Council should investigate the potential for additional sources of funding and possible contributions from RSL partners towards the eventual scheme. It is not until further detailed work is undertaken with potential RSL partners that the answers to these questions can be provided. It is also necessary to investigate the option of utilising the new prudential borrowing regime as a possible alternative method of funding the regeneration scheme. It is important therefore that the Executive receives a further report detailing any financial impact on the Council before any final decision is made.

4. Staffing Implications

- 4.1 The project will be led by the Project Director (Chalkhill) with support from other existing staff. There are no other immediate staffing implications.
- 4.2 The proposed vehicle for the regeneration of Barham Park, subject to any views the consultees may have, is a stock transfer to an RSL. Brent Housing Partnership currently manages Barham Park estate. A stock transfer will impact on current staff and therefore it is anticipated that TUPE will apply. The Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended) ('TUPE') regulate the employment implications of transfers of undertakings. Where TUPE does apply, the transferee (the RSL) will take over the employment contracts of all staff assigned to the transferor's (the Council's) undertaking or that part of the transferor's undertaking being transferred. The staff transfer across to the transferee with continuity of employment. Further details will be put before members in a subsequent report.
- 4.3 As the size of the stock is small in this case, the impact on staffing levels is also small. Current estimates are that the number affected would be two or possibly three posts, however BHP will try to absorb staff into other parts of its operation where possible. Further information will be presented to members as and when the scheme is approved. The successful RSL will be notified of these posts and be given details of the staff in question. The Council will endeavour to require the RSL to make the necessary provision for the employment of these staff prior to the completion of the proposed transfer.
- 4.4 At this early stage, the following issues remain to be finalised in respect of TUPE resulting from the possible transfer:
- The extent of employment details to be given by the Council concerning relevant employees.
 - The extent of any warranties / indemnities to be given by the Council concerning such employment details
 - Pension rights and other considerations and benefits associated with public sector employment.
- 4.5 The transfer of 214 properties, will also affect the fee income of BHP.

5. Legal Implications

- 5.1 The Council has the power to dispose of property under s 32 of the Housing Act 1985 subject to the consent of the Secretary of State. There are statutory requirements under s 106A to consult secure tenants about any proposals to redevelop their homes or transfer them to another landlord. Broadly speaking, tenants must be given an opportunity to make representations to the Council and these must be taken into consideration before the Council makes any firm decision. The precise consultation requirements will depend on the option being pursued and will have an impact on the timing and potential costs of the project. For example, if properties are transferred to a Registered Social Landlord (RSL) it will be necessary to vary the terms and conditions of the tenancy for those affected.

- 5.2 There may be a need for legal proceedings under the Housing Act 1985 to obtain possession of individual homes, although experience at Chalkhill shows that it is entirely possible to obtain vacant possession of an estate by negotiation alone. Where long leases are held by property owners the Council may have to exercise its compulsory purchase acquisition powers (CPO), which would involve making compensation payments to leaseholders and perhaps also rehousing them.
- 5.3 The Council will need to comply with the procedures for making and confirming compulsory purchase orders set out in the Acquisition of Land Act 1981, if the Council decides to acquire leasehold interests under its CPO powers. The effect of the procedure is that a compulsory purchase order cannot be acted upon until sufficient notice has been given to the owner of the land and it has been confirmed by the confirming authority, in this case the Office of the Deputy Prime Minister. Thus the Council will not actually be in a position to acquire the leasehold interest until the order has been confirmed.
- 5.4 If the Council acquires the leasehold interest under its compulsory purchase powers, the Council will be obliged to pay compensation to the owners of the property. The amount of the compensation payable is essentially the open market value of the land with disturbance, interest (if there is a delay in paying compensation) and costs.
- 5.5 If redevelopment is the chosen option, planning permission will need to be applied for either by the Council or the developer. If applied for, there may be blight implications for those who claim to be adversely affected by the development, which may involve the Council in additional cost in that a person affected by blight who is unable to sell his or her property can require the Council to acquire that property.
- 5.6 There are also Human Rights implications. The rights that are of particular significance to members' decision in this matter are those contained in Article 8 (right to respect for private life and home) and Article 1 of Protocol 1 (peaceful enjoyment of possessions).
- 5.7 Article 8 provides that there should be no interference with the existence of the right except in accordance with the law and, as necessary in a democratic society, in the interests of the economic well-being of the country, protection of health and the protection of the rights and freedom of others. Article 1 of Protocol 1 provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided by law, although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 5.8 In determining the level of permissible interference with enjoyment, the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the aim pursued. The availability of an effective remedy and compensation to affected persons is relevant in assessing whether a fair balance has been struck. Until precise details of the proposals are known is difficult to advise further on these points.

- 5.9 It is possible that arrangements could be made for an RSL to bear the cost of exercising CPO powers and indemnifying the Council against costs associated with it.
- 5.10 A disposal of land is outside the provisions of the EU procurement regime and the Council's contract standing orders do not apply to a disposal of land, however it is not possible at this stage to say whether this scheme will consist of more than a disposal of land and that issue will need to be addressed in a further report.
- 5.11 In disposing of land members must bear in mind their fiduciary duty to their Council Tax payers and satisfy themselves they are obtaining value for money.

6. Detail

- 6.1 At its meeting on 3rd February 2003, the Executive received a report on the physical condition of Barham Park estate and the considerable cost of refurbishment. This report was based on work carried out by Hunter & Partners, a multi-disciplinary firm, comprising architectural, surveying and other building professions. Their estimate of the cost of refurbishment far exceeded any resources likely to be available to the Council. Barham Park was built in 1970/71 and comprises 214 dwellings (24 of them now leasehold) arranged in 28 blocks of three storeys. It was built with the same 'Resiform' system as used at Church End. It has been clear for some time that Barham Park needed a level of investment well above the average required for the balance of Council properties. Hunters recommended that other options be explored, particularly as refurbishment would still require a relatively high level of ongoing maintenance expenditure.
- 6.2 The Executive agreed to appoint a consultant to carry out a full options appraisal for Barham Park, in consultation with residents, to determine the best way to achieve the regeneration of the estate. Hunter and Partners were appointed because of the knowledge and experience they had already built up. A full copy of their report is available for inspection, as in Section 7. This report is based on that document.
- 6.3 In their earlier work, Hunters consulted the residents association. The Option Appraisal was to give all residents an opportunity to be involved. Hunters held two public meetings, which were publicised through leaflets delivered to all addresses on the estate. At the first meeting on 22nd May they presented plans showing three options:
- Option 1 – refurbishment
 - Option 2 - partial refurbishment/partial redevelopment
 - Option 3 – full demolition and new build.
- 6.4 For each of the options, residents were invited to write comments onto 'Post-It' notes which they posted onto the relevant plan. A questionnaire was also completed, seeking comments under the following headings:
- External environment – outside your flat
 - Communal areas and facilities
 - Internal environment – inside your flat
 - Option preference.

- 6.5 A detailed specification of what each option entailed, was provided. For Option 3 – full demolition and new build – this comprised 306 new homes, an increase of 92 units over the existing total. The new development was to be no more than four storeys in height.
- 6.6 In their earlier report to the Council, Hunters concluded that the costs of refurbishment, for the standard of housing provided, were very high. There would also be a continuing cost of maintenance for the refurbished properties, at well above the rate required for newly built units. The experience of other local authorities is also that demolition and redevelopment of Resiform units is the more financially advantageous option. As far as a part refurbishment/part redevelopment option is concerned, Hunters concluded that it would be hard to justify the demolition of only one part of the estate as the condition of the properties is very similar throughout the estate. However, the views of the residents should be sought before any final decision could be made.
- 6.7 From their Option Appraisal exercise over the summer, Hunters are able to say that residents overwhelmingly favoured Option 3 – full redevelopment (23 to 1 in favour of those at the meeting). Residents nevertheless expressed various concerns on what the redevelopment option might mean for them, including:
- Whether the size of the new dwellings will match the size of the existing
 - The mix of dwelling sizes
 - A preference for two bed houses rather than flats
 - Concerns over which floor level they might be allocated
 - Transfer to an RSL
 - Crime and security in the new development
- 6.8 Hunters agreed to consider the redevelopment option in further detail and present their revised design to a second meeting of residents. In the meantime, they also consulted the Council's Planning and Transportation services and the Metropolitan Police Service's Crime Prevention Design Advisor. One of the key issues raised by Planning and Transportation is the availability of only a single point of vehicle access, making the whole estate essentially a cul-de-sac. The informal view of planning and transportation officers is that any proposal leading to an increase in traffic generation would be unacceptable, with this limited access (see letter attached as appendix 1).
- 6.9 In their revised proposals, which have not been discussed with Planning (see below) Hunters have reduced the number of additional units, but have still shown an increase. The increase is deemed essential to help fund the re-provision of the existing social housing. The planning and transportation officers' view was that a second point of access would need to be formed if there was to be any significant increase in the number of units proposed. Hunters have highlighted this issue in their report and have indicated where a second access road could be formed, by purchasing privately owned property. However this has not been incorporated into Hunters scheme for Option 3 and therefore remains to be addressed at a further stage of the process.

- 6.10 The Police response emphasised the need to reduce opportunities for crime and anti-social behaviour to occur. The Police prefer the full redevelopment option because it offers the greatest opportunity to achieve this. They recommended some minor adjustments to the designs particularly at the end of the blocks of flats.
- 6.11 A second meeting with residents was held on 30th June. Hunters presented a more detailed design scheme for the preferred Option 3 – full redevelopment – taking into account the feedback received. In particular, the number of new homes was reduced from 306 to 280, giving a gain of 66 units. Provision is also made for a new community centre, 209 parking bays, a children’s play area and new roads with traffic calming. The dwelling mix suggested by Hunters is compared to the existing as follows:

Size of dwellings	Existing	New
1 bed flat	83	80
2 bed flat	60	148
3 bed flat	71	0
3 bed house	0	33
4 bed house	0	19
Total	<u>214</u>	<u>280</u>

The dwelling mix should be considered to be illustrative at this stage, because there has been no survey of residents’ housing needs. Hunters formed the view as a result of their discussions with residents that, as some one bed flats were over-occupied and some three bed flats under occupied, there was a need for more two beds. They also allowed for some four beds knowing the Council’s general need for large family accommodation. The precise dwelling mix will need to be reviewed when a housing survey has been completed.

- 6.12 In their second presentation Hunters set out the room layout and floorspace of each dwelling type. Room size was a concern to residents. The room sizes adopted by Hunters are based on the Housing Corporation’s Scheme Design Standard, which is the Corporation’s requirement for all social housing projects in receipt of grant. This standard is a modern approach to efficient design based on the need to accommodate certain furniture items rather than the specific floorspace measurements of the Parker Morris’ standards, which governed housing built in the 1960’s and 1970’s. Hunters view is that a switch to Parker Morris equivalent floorspace would not impact on the number of units which could be accommodated.
- 6.13 Hunters have pointed out that a small number of the privately owned properties in Central Road appear to have vehicle access to their rear gardens off Saunderton Road. Saunderton is not an adopted highway and is therefore a private estate road. It is not known how these properties have come to gain such access or how long they have had it. Hunter’s proposed design has retained only pedestrian access to the rear of these properties and they recommend that the legal position regarding vehicle access for the adjoining private houses be investigated. These are all issues which will require further investigation and detailed proposals before the scheme can be finalised.

Budget Costs

6.14 Hunters have calculated the initial costs of the three options. These costs exclude the following items:

- VAT
- Professional and planning fees
- Survey costs
- Asbestos removal
- Contaminated land
- Service diversion
- Party wall matters

Also excluded are the costs of rehousing tenants, in terms of statutory homeless compensation and disturbance payments, the cost of buying out the leasehold interests, the cost of any additional property purchase to form an additional access and any section 106 requirements, related to planning consent.

6.15 The initial budget costs for the three options are as follows:

	<u>£</u>
1. Refurbishment (214 units)	
Total cost	13,639,421
Average cost per unit	63,735
2. Part refurb./part new build (112/102 units)	
Total cost	20,525,326
Average cost per unit	90,023
3. Demolition & new build (280 units)	
Total cost	29,516,622
Average cost per unit	105,416

6.16 A further breakdown of Option 3 – demolition and new build is provided. This assumes that the 66 additional units are built for private sale, in order to provide cross subsidy for the reprovision of the 214 social housing units.

Option 3 Demolition and new build:

3. a) New build social housing units (214 units)	
Total cost	22,416,075
Average cost per unit	104,747
3. b) New build private sales units (66 units)	
Total costs	7,100,545
Average cost per unit	107,583

Funding Options

- 6.17 Hunters have set out the possible funding options for a redevelopment scheme i.e. complete demolition and new build. As part of the process of setting up Brent Housing Partnership (the Almo) the Council undertook a stock condition appraisal and an assessment of its capital spending potential over the foreseeable future. The conclusion was drawn that Barham Park required a magnitude of expenditure which was beyond the Council's ability to provide. Since that time there have been suggestions that the Major Repairs Allowance might be increased, but there is no guarantee that this will happen to any known timetable. Also the sums involved would not meet the requirements for a major scheme like Barham Park. It is also possible that, following its award of 3 stars in the recent Best Value inspection, Brent Housing Partnership might be given powers to raise capital which, if agreed, could allow them to undertake schemes of this nature. However, this is the subject of continuing debate and again there is no guarantee of this happening at this stage. The Council needs also to carefully consider the likely implications for this (and indeed other similar projects) arising from the introduction of the so-called 'prudential borrowing regime' whereby councils, subject to certain constraints, will be able to borrow money in support of capital projects. This differs somewhat from the current capital regime and potentially gives the option of funding from the net rental stream.
- 6.18 The initial pathfinder Private Finance Initiative (PFI) housing schemes have been through a difficult setting up period, during which a number have dropped out, but the first project is now agreed. Hunters say that this is an option the government see as viable and a further bidding round will be announced in the autumn. The main disadvantage is the protracted timescale involved and the lack of serious private bidders, a problem experienced in other housing PFI's to date.
- 6.19 Hunters also comment on the potential to transfer to a private (i.e. non-RSL) developer. This has been announced in a recent government consultation document which states the intention to make available gap funding to private developers for housing-led regeneration. Again this is not operative yet and indications are that this initiative will be directed towards the Thames Gateway. It is probably not a viable proposition for Barham Park.
- 6.20 Transfer to a registered social landlord is a tried and tested route, which the Council has followed successfully before. It is recommended that this option be pursued for Barham Park, with a view to securing the complete demolition of the Resiform estate and a new build scheme which replaces at least an equivalent number of social housing units. This allows greater control over the process of selection of a partner and implementation so that the Council can achieve its development objectives. It also allows the residents to satisfy themselves as to the suitability of their new landlord.

- 6.21 The ability to develop additional units on site will be crucial to an RSL's ability to fund the scheme. The development of units for sale will provide cross subsidy to help fund the social housing units. It also provides some tenure mix. Hunters estimate, without the benefit of a full appraisal, that the sale of 66 two-bed units in this area could release £6.1m to help fund the new social housing. They believe that the costs of construction which they have estimated, as adjusted by the cross subsidy from the units built for sale, would fall within the Housing Corporation's Total Cost Indicator, based on a works only formula i.e. no land costs. This suggests that the new build scheme could be self-financing but the final confirmation of this will be needed from the RSL's themselves.

Independent Residents Adviser

- 6.22 At the meeting in February the Executive agreed to appoint an Independent Residents Adviser or Residents Friend. Twelve organisations were invited to bid for this appointment. Three organisations submitted proposals and fee quotations: Dome Consultants, DWA and PPCR (Public Participation Consultation and Research). These three organisations made presentations to a panel of members of the Barham Park TA and the panel selected PPCR.
- 6.23 PPCR have already held three meetings with the tenants association, to develop criteria which the tenants can use in the selection of a future RSL landlord. The residents agreed to ask the RSL's who make up the Council's Joint Commissioning Partners for initial expressions of interest. These are: Acton Hsg Association, Asra, Catalyst Housing Group (including Ealing Family HA), Family Housing Association, Genesis Housing Group (including Paddington Churches HA) Metropolitan Housing Trust, Octavia Housing Association, Stadium Housing Association (part of the Network Housing Group) Notting Hill Housing Trust and Ujima Housing Association. The residents, with help from PPCR, will develop a questionnaire to seek relevant information from the RSL's who are interested in taking on the scheme.

Selection of RSL Partner

- 6.24 It is recommended that the Executive agree to consider a transfer of the Barham Park estate to an RSL partner, in order to secure its redevelopment. The Executive is asked to agree that officers discuss this proposal further with the Joint Commissioning RSL's.
- 6.25 The selection of the RSL partner is a joint resident and Council task. The residents must be confident that the RSL is acceptable to them as their new landlord and the Council must know they are capable of delivering its development objectives. Officers will develop a brief to inform the RSLs of the nature of the scheme. It is recommended that the Executive agree the following principles for inclusion in the initial brief:

- That the Council seeks a transfer and redevelopment scheme for Barham Park without any direct Council financial contribution
- That all 214 existing units are replaced with social housing
- That the scheme meets the design, layout and parking standards set out in the Unitary Development Plan 2000-2010 and relevant supplementary planning guidance notes
- That the scheme also includes a community centre and other proposals for the social and economic regeneration of the estate
- That all costs of rehousing and leasehold buy out are met
- That there is no impact on the Council's temporary accommodation position from decanting at Barham Park
- That all current residents at Barham Park are rehoused satisfactorily and have an opportunity to be housed in new homes at Barham Park if that is what they wish
- That the successful RSL reimburses the Council's costs in commissioning the Options Appraisal report and the Residents Friend appointment and indemnifies the Council if it has to use its CPO powers.

7. **Background Information**

Initial Appraisal Exercise for the Regeneration of Barham Park Estate - Hunter & Partners.

Barham Park Estate, Option Appraisal Report – Hunter & Partners September 2003.

Any person wishing to inspect the above papers should contact:

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