



Meeting of the Executive
16th June 2008

**Report from the Director of
Housing and Community Care**

Wards Affected:
Sudbury

Barham Park Estate – Petition from Residents.

Forward Plan Ref: H&CC-06/07-07

1.0 Summary

- 1.1 This report is intended to update members on the Barham Park Estate redevelopment. It will also enable members to consider the petition that has been given to the Council in November 2007.

2.0 Recommendations

- 2.1 That Members note the petition put forward by residents.
- 2.2 That members note that only 24.5% have expressed their desire to remain tenants of the Council from the needs survey undertaken by Council officers.
- 2.3 That Members note that the English Partnership gap funding pot represents the only opportunity to take forward a viable proposal to meet the decent homes target for Barham Park
- 2.4 That members be made aware that removal of Notting Hill Housing (and Countryside) at this stage would jeopardise the Council meeting the decent homes target.
- 2.5 That Members note that a further report will be submitted by October/November 2008.

3.0 Background

- 3.1 Properties on the Barham Park Estate suffer from a range of problems associated with their age, design and build system. These include problems such as dampness, condensation and poor insulation. These properties were not built to last as long as the more traditionally built properties. Indeed similar built properties in Church Rd (Church End and Roundwood Estate) have been completely demolished and rebuilt.
- 3.2 In 2002 the Council acting on professional advice on the condition on the estate, decided that Barham Park estate should be redeveloped and therefore the estate was not included in BHP's decent homes programme as their main priority at the time was to concentrate on the repair and refurbishment of the bulk of the Councils stock.
- 3.3 The non-traditional properties such as the resiform dwellings in Barham Park would require a disproportionate financial commitment which disqualified it from being on the ALMO's decent home programme, as the average cost to refurbish the properties on the estate would cost in the region of £64k per unit at 2002 prices in comparison to BHP's average cost per unit cost of £10k per unit. In an earlier report to the Council, Hunters (the then Council advisors) 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.
- 3.4 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. The following options were put to residents to consider:-
- Option 1 – refurbishment
 - Option 2 - partial refurbishment/partial redevelopment
 - Option 3 – full demolition and new build.
- 3.5 The residents chose option three even though the full costs to demolish and rebuild would cost in the region of £30m at 2002 prices.
- 3.6 In October 2003 the Council agreed to seek the views of Registered Social Landlords that were the Council's Joint Commissioning Partners. Notting Hill Housing (NHH) was selected as the Council's RSL partner in December 2004. Since then considerable amount of work has been undertaken to work up plans that met the needs of the existing tenants, taking into consideration the views of the wider neighbourhood, meet local and London planning requirements and are financially viable.

- 3.7 Throughout 2005 NHH worked on proposals and liaised with Council departments including housing and planning as well as consulting with tenants. Despite extensive efforts, it was not been possible to produce a scheme which is financially viable without building a significant number of homes for sale without an injection of external funding. In April 2006 NHH presented proposals that consisted of 495 units of which 84 were off the estate on the Harrow Road on a site that Notting Hill had purchased. It would have also involved using 10% of Maybank open space and necessitated an additional access route from Central Road.
- 3.8 This proposal would have allowed the inclusion of Housing Corporation funding for the offsite units though insufficient to clear the deficit. It should be noted that at the same time officers bid to the London Housing Board for estate regeneration funding was rejected. This option of 495 units was rejected by tenants who wished to see a lower density scheme and in addition a petition to the Executive in July 2006 strongly opposed the additional access route.
- 3.9 Notting Hill worked on further proposals which officers presented to the Council's leadership in November 2006 who met with Notting Hill in January 2007. Although the density of the overall scheme was reduced and the increase on the estate itself was limited to 300 homes, there was still a financial deficit that would need central government funding. In addition there is a body of opinion on the estate which is opposed to Notting Hill continuing to be involved and the Council would need to consider whether a stock transfer ballot would be successful.

New Proposals

- 3.10 Notting Hill and Countryside raised the potential of English Partnership funding with council officers in November 2007. Countryside have accessed this funding on schemes in the Thames Gateway. This funding is only available to private developers and housing associations rather than Local Authorities. English Partnership have expressed interest in funding areas outside of the Thames Gateway. Council officers confirmed this approach with English Partnership. Although there is no guarantee of this funding being available for Barham Park, English Partnership is willing to consider proposals in Brent.
- 3.11 The Leader of the Council and Sudbury ward Members met with representatives of Notting Hill and Countryside on 5 February 2008.

Scheme proposal

- 3.12 The proposal presented to the meeting was:-
- 356 units in total
 - 300 within the existing estate,
 - 56 on Harrow Road,
 - No development on Maybank open space,
 - No secondary road access required,

- Scheme in line with previous discussions with residents and ward members.
- 3.13 The proposals are for a mixed tenure development (social rent, shared ownership, private ownership). Notting Hill expressed willingness to explore other forms of management arrangements.
- 3.14 Members at that meeting agreed in principle to the approach and wanted to make sure that residents were aware of the new opportunity.
- 3.15 Since the meeting in February 2008, a number of events have taken place.
- A letter was sent to all residents on the 22nd February 2008 alerting them of the proposed new opportunity to move ahead with a scheme for Barham Park
 - A letter was sent on 22nd February 2008 to both Countryside Properties and Notting Hill Housing Trust to give in-principle support to the proposals and an agreement to submit the pre-application to EP
 - A meeting took place with Barham Park Tenants and Residents Association on 27th February 2008. At that meeting it was agreed to change their Independent Resident Advisor. This has occurred. The residents re-iterated their support for improvements to be done for Barham Park.
 - A team of Council officers has been put together to drive forward the process of regeneration for Barham Park and has taken a pro-active approach in communicating with residents.
 - Verification of residents details have updated – initial desktop work has been completed.
 - Discussions with some residents have taken place after the Directors letter was received – with mixed views.
 - The housing need & aspirations survey has been sent to all residents and 70% of all forms sent have been received. Officers are pro-actively chasing for those who have not yet returned their forms.
- 3.16 Notting Hill and Countryside have:-
- Researched the current local market conditions to inform private sale mix of units
 - Reworked previous sketch layout as discussed with Members on 5 February
 - Revisited previously-gathered technical information on site development constraints
 - Presented a new construction phasing programme to inform the decant strategy
 - Countryside have identified potential development sites to assist with decant options for the overall scheme.

3.17 Council officers, Notting Hill Housing and Countryside Partnerships met with English Partnerships on 2nd May 2008, to discuss the pre-application process and when the decision would be made.

3.18 English Partnerships confirmed the following:-

3.18.1 The Barham Park scheme is within the parameters for funding within the EP gap funding process.

3.18.2 That the pre-application should be submitted as soon as possible. Countryside Partnerships have now submitted the pre-application on 22nd May 2008.

3.18.3 Because the level of funding required exceeds £3m it will need to go to the EP Main Board as well as their regional senior management team; they estimate a decision by September 2008.

Survey Response as at 19th May 2008

3.19 The survey form was sent out on 7th April 2008 with a deadline return date of 27th April 2008. Officers held surgeries on the 10th 17th and 24th April to answer questions that residents may have. Since that time Officers have gone around the estate knocking on doors where residents have not returned their forms and have met with individual tenants where appointments have been made.

3.20 From the 213 forms sent out we have received 157 forms. This constitutes over 70% response rate. For a postal survey returns are usually between 10% and 21%, so the returns on this exercise represents a statistically valid benchmark to assess overall views on the estate.

3.21 Of those who responded to the survey only 40 tenants formally responded that they wanted to stay with the Council. This represents 25.5% that expressly stated they wanted to remain Council tenants. 117 tenants did not express this view (74.5%).

3.22 Of the 157 residents who responded 21 (13.4%) wants to be involved with the proposals to develop/improve the estate, 25 (6%) responded that they wanted further information before they considered that they wanted to be involved – which would indicate that residents on the whole wants the estate to be improved.

3.23 What is more revealing is that only four forms (2.5%) indicate that they do not want Notting Hill, as an organisation, to take forward any proposals on the Estate .

4.0 Legal Implications

- 4.1 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. An application to the Secretary of State for consent for approval of housing land transfers under section 32 of the 1985 Act must be authorised by Full Council as set out in Table 6 of Part 4 of Brent Council's Constitution. There are statutory requirements under s 106A of the Housing Act 1985 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.
- 4.2 There may be a need to issue 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. This will depend on whether it is necessary to provide any new owner with vacant possession of the properties on the Barham Park estate and whether the Secretary of State gives her consent for the transfer of the land on the Barham Park estate to proceed on such a basis. Possession orders can be obtained from the Court under Ground 10A of Schedule 2 to the Housing Act 1985 for these purposes provided that the Secretary of State gives her consent to do so. The procedure required to obtain possession of the properties through these means is set out in Part V of Schedule 2 to the Housing Act 1985.
- 4.3 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. Before and during the compulsory acquisition process, the Council is expected to continue the process of seeking to acquire the properties sought by negotiation and private agreement
- 4.4 The Council will need to comply with the procedures for making and confirming compulsory purchase orders as set out in the Acquisition of Land Act 1981, the Compulsory Purchase of Land Regulations 2004 and the Compulsory Purchase of Land (Vesting Declarations) Regulations 1990 if the Council decides to acquire leasehold interests under its CPO powers.
- 4.5 The effect of the procedure is that a compulsory purchase order cannot be acted upon until sufficient notice has been given to the lessees, tenants, occupiers, and all persons interested in the land. If any duly made objections are not withdrawn, the Secretary of State must hold an Inquiry and consider the conclusions and recommendations of the

Inspector before confirming the Order. Thus the Council will not actually be in a position to acquire the leasehold interest until the order has been confirmed.

- 4.6 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 negotiating and paying compensation) and costs. Any dispute as to the amount of compensation to be paid is referred to the Lands Tribunal for determination
- 4.7 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.
- 4.8 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).
- 4.9 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.
- 4.10 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.
- 4.11 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.
- 4.12 Whilst 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.

- 4.13 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.

5.0 Financial implications

- 5.1 This report includes details of a new scheme proposal for the redevelopment of Barham Park. The details of this scheme are set out in the body of the report.
- 5.2 The new scheme will be dependent upon a successful bid to English Partnerships for gap funding of approximately £10m. A decision of this funding application is expected around September 2008.
- 5.3 If the Barham Park scheme does not attract any English Partnership gap funding, then the Council will not have a viable scheme. The Council would not be able to meet the Decent Homes target for the estate by 2010-12.

6.0 Diversity Implications

- 6.1 All current residents of Barham park estate will be affected by any regeneration scheme, the objective being to improve their housing conditions and their quality of life. NHH's bid for the project submitted equality and diversity statements and policies that show they share the council's aims. NHH in particular referred throughout their presentation to the need to pay special attention to the make-up of the estate, in their consultation and resident involvement strategies.
- 6.2 There is clearly potential with any regeneration scheme for some groups to be disadvantaged, unless clear policies are established to prevent this. If a positive decision is made by EP on gap funding then a full Equality Impact Assessment of the proposals will be made so that it is available to influence the consultation process and the final scheme.

7.0 Conclusions

- 7.1 That member's note that this is the very first time that a proposal for Barham Park will be financially viable if English Partnership gap funding application is successful.
- 7.2 The proposed scheme meets the Council members, residents' and officers aspirations as:-
- 7.2.2 It will be a high quality scheme
- 7.2.3 It will not build on the Maybank open space.

- 7.2.4 It will provide high quality communal spaces within the development.
- 7.2.5 It will not require a secondary access route.
- 7.2.6 There will be a combination of flats, houses and commercial units provided.
- 7.2.7 There will be a range of housing tenures within the development (rent, shared ownership and for sale properties) and
- 7.2.8 No more than 300 homes will be built on the current estate, with around 56 on the Harrow Rd site.
- 7.3 That members note that there are no other financially viable proposals available to regenerate Barham Park. If members were to consider the petition's proposal and agree with it at this stage – it would mean that the Council will not have the means to regenerate the Barham Park estate.
- 7.4 That members wait for the outcome of the Barham Park gap funding pre-application from English Partnerships. The decision is estimated to be taken in September 2008.
- 7.5 Members will be presented with another report on Barham Park by October/November 2008.

Background Papers

Barham Park Estate Proposals

Anyone wishing to inspect these documents should contact:

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