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Meeting	Cabinet Resources Committee
Date	2 April 2014
Subject	<b>Regeneration estates essential major works programme: discounted resident leaseholder charges</b>
Report of	Cabinet Member for Housing
Summary of Report	This report proposes a policy for offering resident leaseholders on regeneration estates discounted charges for essential health and safety works.

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Officer Contributors	Pam Wharfe, Strategic Director for Growth and Environment Declan Hoare, Lead Commissioner (Housing and Environment) Paul Shipway, Head of Strategy and Performance, Regional Enterprise Ltd Jacky Nelson, Housing Manager (Leaseholder Services), Barnet Homes Ltd
Status (public or exempt)	Public
Wards Affected	All
Key Decision	Yes
Reason for urgency / exemption from call-in	None
Function of	Executive
Enclosures	Appendix 1 – proposed discount policy
Contact for Further Information:	Chloe Horner, Strategy and Business Improvement Manager, Regional Enterprise Ltd, <a href="mailto:chloe.horner@barnet.gov.uk">chloe.horner@barnet.gov.uk</a> , 020 8359 4775

## **1. RECOMMENDATION**

- 1.1 That the policy of discounted resident leaseholder regeneration estate major works charges be approved as set out in paragraphs 9.7, 9.8 and 9.9 of this report.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 Delegated Powers Report number 532 dated 9<sup>th</sup> May 2008 approved discounted payments by Council leaseholders in respect of major works on properties awaiting demolition in West Hendon in financial year 2010/11.
- 2.2 Delegated Powers Report number 1574 dated 8<sup>th</sup> February 2012 approved discounted payments by Council leaseholders in respect of lift refurbishment works on properties awaiting demolition in West Hendon, Edgware and Colindale in financial year 2011/12.
- 2.3 Delegated Powers Report number 1789 dated 8<sup>th</sup> October 2012 approved discounted payments by Council leaseholders in respect of lift refurbishment work on properties awaiting demolition in West Hendon and Colindale in financial year 2012/13.

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 The regeneration of the priority housing estates is a key part of the Corporate Plan 2013 to 2016 priority “To maintain the right environment for a strong and diverse local economy”. The strategic objective under this priority is to sustain Barnet by “promoting growth, development and success across the borough”. This will be done through the delivery of seven major regeneration schemes across the borough, which will create more than 3,000 new homes over the next 5 years. This is supported by the Council’s Housing Strategy 2010 to 2025 which has “increased housing supply” and “promoting mixed communities” as key objectives.
- 3.2 Most properties on the priority regeneration estates were not included in the wider Decent Homes programme which was successfully completed by Barnet Homes in 2010. This is because these homes are due to be demolished and replaced with new homes over the next 2 to 15 years. However, the Council has a duty to ensure that homes are maintained to a reasonable standard whilst they are still occupied and are awaiting demolition.
- 3.3 Council leaseholders are normally expected to pay towards the costs of works undertaken to their block and in accordance with the terms set out in the lease. The costs are calculated based upon the percentage of the block works specified in the lease. Resident leaseholders on the regeneration estates will eventually have to move when the Council compulsorily purchases the property to facilitate the estate regeneration.
- 3.4 It could be viewed as unreasonable in these circumstances to expect a leaseholder to pay in full when they are not going to enjoy the full benefit of the works because their homes are to be demolished as part of regeneration plans in the near future. The payment may also be difficult in terms of cash flow and require a leaseholder to enter into an expensive loan agreement with a bank. It is proposed, therefore, that the leaseholders are offered a

discounted charge and affordable payment plan based on the number of years that they will benefit from the work.

#### **4. RISK MANAGEMENT ISSUES**

- 4.1 Although Council leaseholders are obliged to contribute towards the overall cost of capital works on their blocks, there is a risk that bad debts will be incurred where properties are due to be demolished in the next 10 years and the leaseholder is not willing to pay the whole cost.
- 4.2 The risk will be mitigated by offering a discount to resident leaseholders on the regeneration estates who are subject to a bill for major works and they will not see the full economic benefit.
- 4.3 If essential works are not carried out on these properties there may be health and safety risks, such as:
- To life and limb i.e. from fire or Legionella
  - Serious damage to the structure of the property, for example serious roof defects
  - To the security of the property
  - To the wellbeing of residents, for example serious lift defects or failures
  - Total power outage that would necessitate a lengthy decant (as happened at Upper Fosters in 2012).

#### **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 Demographic analysis has shown that a higher proportion of households on the regeneration estates are from Black and Minority Ethnic households than for the council housing stock as a whole. In addition, more households are families with children and there are higher proportions of households with disabilities.
- 5.2 17% of Council leaseholders have somebody in the household with a long term illness or disability. This might make it difficult to pay large major works service charges without them being discounted.
- 5.3 84.5% of Council leaseholders on the regeneration estates are aged over 60 and may find it difficult to pay large major works service charges without a discount being applied.
- 5.4 Discounted major works bills will be offered to resident leaseholders on regeneration estates when they will not see the full economic benefit of essential health and safety related works because their property will have to be bought back in order to facilitate the regeneration of the estate. Where it can be ascertained that a leaseholder purchased the property in the knowledge that it had a limited life span they be expected to pay the full cost of the works.
- 5.5 Barnet Homes has consulted residents on the proposed discount policy through the Performance Advisory Group which was in unanimous agreement with the proposals.

## 6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 It is proposed to offer a discount on the essential health and safety related works to leaseholders on regeneration estates according to the following formula:

$$\frac{\text{Cost of works}}{\text{Total expected lifespan of element in months/years (to max 144 months/12 years)}} \times \text{estimated period in months/years before decanting of block}$$

- 6.2 The implementation of a formula with no defined cap point could result in substantial reductions being applied to works resulting in the Housing Revenue Account giving unjustified subsidies to leasehold properties.
- 6.3 Therefore, a life expectancy cap of 12 years (or 144 months) has been applied even where the full anticipated life span exceeds this period. Some elements will have an anticipated lifespan of less than 12 years and this will be reflected in the discount calculation. The 12 year cap is considered to be a reasonable number of years of use to expect a leaseholder to contribute fully to the costs of the works. It is also beneficial to have such a cut-off point to avoid any disputes arising out of possible differences in view of the anticipated life-span of any works.
- 6.4 Leaseholders will be billed for 90% of their full estimated contribution at the point the works start. They will be expected to pay in a lump sum or agree to a repayment plan. At the point of sale, through a compulsory purchase order or voluntarily to the developer at the developer's request, the discount on the cost of the works shall be applied to resident leaseholders based on the formula above. The leaseholder will then receive a rebate for any money they have paid over and above the revised discounted contribution or be required to settle the difference between the amount paid to date and the revised discounted price.
- 6.5 The second option allows resident leaseholders to enter into a monthly payment arrangement, paying a 144<sup>th</sup> instalment (reflecting number of months over 12 years) of the leaseholder's total contribution per month up to the point of sale. In the event that the anticipated serviceable life of the element is less than 12 years the number of months in the payment plan would be reduced accordingly.
- 6.6 Discounts on either scheme shall not be available to non-resident leaseholders except in exceptional circumstances where the council in its sole discretion considers that the leaseholder has demonstrated hardship.
- 6.7 The total overall budget for all essential health and safety related work on Barnet Homes housing stock is £24 million over 11 years. Approximately 18% of the affected properties on regeneration estates are leasehold which would mean that the Council could recover approximately £4.3 million if leaseholders paid the full rate as per the terms of their lease. If leaseholders are offered discounts according to the proposed policy then the Council can expect to receive £2.5 million. The cost of the discounts policy is therefore a maximum of £1.8 million. This will be paid for out of the Housing Revenue Account.

- 6.8 As a result of the discounts applied to the regeneration estates, leaseholder contributions in effect reduces by a total of £1.8 million. As a consequence, the capital programme expenditure has additional costs of £1.8 million over the life of the health and safety programme. The Housing Revenue Account is forecast to be in a surplus position from Year 2017/18 so it is able to absorb the additional costs. The significant impact of the discounts on the Housing Revenue Account is in Year 2016/17 when it is forecast to have a deficit of £415,000. As a result of the leaseholders' discounts in that year, the forecast deficit position increases to £790,000.
- 6.9 The overall impact is not expected to be significant as the loan in the Housing Revenue Model is still forecast to be paid in the same year after taking account of the additional costs of £1.8 million. Overall, the Housing Revenue Account Business Plan shows that it is able to absorb the additional costs, with the most significant impact in Year 2016/17.
- 6.10 If the regeneration is deferred for a period in excess of 12 years from the date the works are carried out the leaseholder will not qualify for the discount applied under this policy as it will be deemed that they have received the full benefit of the works.
- 6.11 It is further proposed that the discount policy will not apply when a leaseholder's total contribution is £1,000 or below.
- 6.12 The cost of the works will be contained by using existing Barnet Homes contractors and securing efficiencies against the original estimated costs for the work.

## **7. LEGAL ISSUES**

- 7.1 The local authority has discretion in relation to the level of works charges it seeks under the lease and this is also supported by the general power of competence in Section 1 of the Localism Act 2011.
- 7.2 The works referred to within the report will be handled by Barnet Homes and are part of a wider 10 year OJEC procured maintenance works contract.

## **8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)**

- 8.1 Constitution, Responsibility for Functions, Section 4.6 – Functions delegated to the Cabinet Resources Committee – includes all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

## **9. BACKGROUND INFORMATION**

- 9.1 Under the terms of their lease, Council leaseholders have to pay a proportion of Barnet Council's costs in maintaining the building and estate. This covers the structure of the building, the outside and all the shared (communal) areas. Council leaseholders contribute towards the cost of services and day-to-day repairs by paying a yearly service charge. In addition to this leaseholders have to pay separate bills for each piece of major work.

- 9.2 The Council has developed plans to demolish the four largest council housing estates - West Hendon, Grahame Park, Stonegrove Spur Road and Dollis Valley - and replace them with new homes as part of its regeneration plans. There are also plans to redevelop the Whitefields estate as part of the wider Brent Cross/Cricklewood regeneration programme. The Council will have to compulsorily purchase leasehold properties on the estates in order to facilitate the redevelopments.
- 9.3 There has been some slippage in the regeneration programme and it is expected that many of the properties will remain occupied for a number of years. However, the Council has a duty to keep these properties in a habitable condition for as long as they remain occupied by tenants and leaseholders.

### **Essential major works**

- 9.4 Essential major works are required on the regeneration estates where there is a significant health and safety risk due to deterioration of key elements for which replacement parts have become obsolete or where repair rather than replacement is not economically viable. This may include the following types of work:
- Fire safety works
  - Electrical rising mains renewal
  - Emergency escape lighting installations or replacements
  - Substantial lift works (such as refurbishment or replacement of lifts)
  - Cold water storage system works – Legionella systems
  - Window replacements when these are being replaced as the current windows are unlikely to remain in a safe serviceable condition until the buildings scheduled demolition date.
- 9.5 Council leaseholders under the terms of their lease would normally be expected to pay their full contribution towards such essential major works notwithstanding the fact that there are plans to demolish the property in the near future.

### **Discounts for resident leaseholders on regeneration estates for essential major works**

- 9.6 A policy (appendix 1) has been developed to address the perceived unfairness of high major works charges for resident leaseholders where they will not see the full benefit because the building is to be demolished. This policy does not apply to non-resident leaseholders, although in exceptional circumstances they may be granted equivalent discounts where the council in its sole discretion considers that a leaseholder has demonstrated hardship.
- 9.7 It is proposed that resident leaseholders on regeneration estates are charged a reduced major works charge because they will not receive the full lifetime benefit of the works. It is proposed that the reduced capital works cost is based on the following formula which takes into account the length of time a leaseholder can be expected to benefit from the works:

$$\frac{\text{Leaseholder's contribution to cost of works}}{\text{Total expected lifespan of element in months/years (to max 144 months/12 years')}} \times \frac{\text{estimated period in months/years before decanting of block}}{\text{in}} =$$

Example which assumes 5 years before demolition:

$$£3,000 \div 12 \text{ years} = £250 \times 60 \text{ months} / 5 \text{ years} = £1,250$$

- 9.8 Alternatively resident leaseholders will be able to enter into an extended monthly re-payment arrangement, paying a 144<sup>th</sup> instalment (reflecting number of months over 12 years) of the leaseholder's total contribution per month up to the point of sale. In the event that the anticipated serviceable life of the element is less than 12 years the number of months in the payment plan would be reduced. This will assist resident leaseholders who are unable to pay a large amount upfront.
- 9.9 The implementation of a formula with no defined end point could result in substantial reductions being applied to works resulting in the Housing Revenue Account giving unjustified subsidies to leasehold properties. Therefore, a life expectancy cap of 12 years has been applied. This is considered to be a reasonable number of years of use to expect a leaseholder to contribute fully to the costs of the works.
- 9.10 Limiting the life span to 12 years has the advantage of the discount decreasing year on year in a stepped manner. This would have benefits over an alternative approach with a cut off point for demolition after which no discount would apply. This approach could result in leaseholders in a block which falls on one side of the cut off receiving significantly higher bills than those in a block on the other side.
- 9.11 No discounts will be applied where a leaseholder's contribution is £1,000 or below.
- 9.12 In cases of genuine hardship, the Council will use its sole discretion to agree an appropriate arrangement for payment of amounts due from individual leaseholders. For example, it may be appropriate to add the discounted amount payable as a charge on the property to be recovered through a reduced compensation amount when it is compulsorily purchased. In these circumstances a leaseholder in financial hardship would not have to make any payments.

### **Monitoring**

- 9.13 Barnet Homes will monitor the implementation of the proposed policy to ensure that it is applied fairly and in accordance with the Council's duty of equality, and to assess the financial viability of the policy.

## **10. LIST OF BACKGROUND PAPERS**

- 10.1 None

<b>Cleared by Finance (Officer's initials)</b>	<b>JH</b>
<b>Cleared by Legal (Officer's initials)</b>	<b>BH</b>

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<sup>i</sup> Some elements will have a lower anticipated life span and this will affect the discount period accordingly