

<b>CABINET</b>	Date 7 <sup>th</sup> May 2008	Classification Unrestricted	Report No.	Agenda Item
Report of :  Corporate Director of Development & Renewal  Originating officer(s): Jackie Odunoye,		Title :  <b>DISPOSAL OF COVENTRY CROSS ESTATE TO POPLAR HARCA</b>  Wards Affected: Bromley-By-Bow		

## 1 SUMMARY

- 1.1 This report sets out the proposed terms for the transfer of Coventry Cross Estate to Poplar HARCA.

## 2 RECOMMENDATIONS

Cabinet is recommended to: -

- 2.1 Subject to the appropriate consents to dispose of the Coventry Cross Estate to Poplar HARCA being sought and granted by the First Secretary of State ("the Secretary of State") and the Housing Corporation:
- (a) Agree the disposal of land on the Coventry Cross Estate within the boundaries identified on the appended plans at nil value, subject to any further negotiation with the Communities and Local Government (CLG) and Poplar HARCA on the terms set out in Sections 4, 5, 6 and 7 of the report.
  - (b) Note the approach to the preserving of valuable open space as set out in Section 8 of the report.
  - (c) Note that there will be retained rights of way as set out in paragraph 9 of the report.

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Local Government Act 1972 (as amended) Section 100D  
List of "Background Papers" used in the preparation of this Report

Brief description of "back ground papers"

Housing Choice Files

Name and telephone number of holder and address where open to inspection.

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- 2.2 Note that the recommendations set out above and discussed in the body of this report are yet to be agreed fully by Poplar HARCA.
- 2.3 Authorise the Corporate Director of Development & Renewal after consultation with the Corporate Director of Resources and appropriate Lead Member to negotiate the precise terms and any outstanding issues relating to the disposal of the Coventry Cross Estate to Poplar HARCA as a consequence of 2.2 above.

**3 BACKGROUND**

- 3.1 Tenants of the Coventry Cross Estate voted in favour of transfer to Poplar HARCA in December 2007.
- 3.2 The transfer will enable the delivery of regeneration programme of up to £9 million across the Coventry Cross Estate in the 5 years following the transfer.
- 3.3 At its meeting on 1 September 2004, Cabinet agreed a policy framework for the negotiation of the terms of Housing Choice transfers to registered social landlords (RSLs). This report proposes terms for transfer within the agreed policy framework unless specifically stated otherwise. This report also sets out details of the land to be included in the transfer.
- 3.4 The ballot results for the Coventry Cross Estate were as follows:

Tenants:

Rate of participation.....		79.8%
Number voting YES .....	49	(65.3% of the valid vote)
Number voting NO .....	26	(34.7% of the valid vote)
 TOTAL	<hr style="width: 100px; margin-left: 0;"/>	 (100% of the valid vote)

Leaseholders

Rate of participation.....		32.1%
Number voting YES .....	2	(7.7% of the valid vote)
Number voting NO .....	24	(92.3% of the valid vote)
 TOTAL.....	<hr style="width: 100px; margin-left: 0;"/>	 (100% of the valid vote)

- 3.5 It is the outcome of the tenants' ballot that determines whether the Secretary of State will grant consent to the proposed transfer. The Secretary of State, when considering an application for consent, will take account of whether the majority of secure tenants affected by the proposed transfer are not opposed to it. The result of the tenants' ballot provides evidence of this. Consent is required to dispose of the land in the terms set out in this report according to Section 32 Housing Act 1985 (disposal of land held for housing purposes), Section 233 Town and Country Planning Act 1970 (for disposal of land appropriated for planning purposes being disposed of at less than market value) and Section 123 Local Government Act 1972 (disposal of open space/amenity land).
- 3.6 The formal consultation document and the Leaseholder Notice were sent to residents on 29 October 2007. During this statutory 28 day consultation period, 15 consultation response cards were received of which 11 were in favour of the proposed regeneration proposals and the transfer to Poplar HARCA. 3 respondents were against the proposals and 1 was undecided.
- 3.7 In order to proceed with the transfer, the Council requires the consent of the First Secretary of State ("the Secretary of State").
- 3.8 The transfer is likely to take place in the summer. Subject to S27 consent, this will be after Tower Hamlets Homes goes live. The estate will therefore be managed by Tower Hamlets Homes on an interim basis up until transfer to Poplar HARCA.

#### 4 LAND FOR DISPOSAL

- 4.1 The Coventry Cross Estate comprises 157 homes with a tenure profile of 94 properties for rent and 63 long leaseholders. A schedule of the residential properties is set out below: -.

<b>Address</b>	<b>Total Dwellings</b>	<b>Tenants</b>	<b>RTB</b>
Brimsdown House	63	29	34
Newmill House	54	41	13
Stanborough House	28	15	13
Stanstead House	12	9	3
<b>Total</b>	<b>157</b>	<b>94</b>	<b>63</b>

- 4.2 Of the rented homes, 7 are currently being used by Homeless Services as temporary accommodation.

The land proposed for disposal comprises -

- (i) Tenanted, empty and leasehold homes.(See table above)
- (ii) Garages, parking spaces, pram sheds and other ancillary buildings

- (iii) Car park area in Empson Street part of the public highway, immediately south of Newmill House.

- 4.3 Plans indicating all of the land to be transferred are appended to this report.
- 4.4 It is proposed to transfer all of the land to Poplar HARCA at nil value. This is based upon the Council's valuation according to the CLG Tenant Market Valuation model, which assesses the investment required to provide a 30-year life for the housing stock. Based on these guidelines the Coventry Cross Estate has a negative value of -£3.8 million. This figure may change subject to a final review with the CLG. Poplar HARCA will enter into a Gap Funding agreement for the amount of gap funding agreed directly with the CLG.
- 4.5 CLG will also make an overhanging debt payment to the Council, plus early redemption payments. This will be calculated using a CLG formula based on a proportionate percentage of the Council's attributable housing debt.

## **5. COMMERCIAL PREMISES**

- 5.1 The following commercial premises are within the transfer area. All are integral to Housing blocks: -

Duke of Wellington Public House, St Leonards St  
76 St Leonards Street  
78 St Leonards Street  
80 St Leonards Street  
82 St Leonards Street  
84 St Leonards Street  
86/88 St Leonards Street

- 5.2 The Policy Framework provides for the inclusion of integral commercial premises in the transfer in line with the latest CLG guidance. The rental income has been factored into the Tenant Market Valuation (TMV).

## **6 OUTLINE OF THE REGENERATION PROPOSALS**

- 6.1 The full extent of the regeneration proposals will depend upon the inclusion of the small car park in Empson Street, marked hatched on Appendix 1a. Poplar HARCA has committed through the offer document to undertake a full refurbishment to the Coventry Cross Estate. However, the inclusion of the car park area will enable more comprehensive change, including the demolition of Stanstead House, the re-provision of the affordable homes for rent, the creation of additional family homes and increased number of homes of mixed tenure on the estate overall.
- 6.2 Poplar HARCA are currently reviewing their proposals for building new homes on the estate to ensure that they comply with latest planning policy. It is therefore proposed

that the transfer of the car park is subject to Poplar HARCA being granted planning permission for its redevelopment on the site.

## **7 TERMS OF THE TRANSFER**

- 7.1 The stock will be transferred subject to existing secure tenancies. Poplar HARCA has made legally binding promises to the tenants to ensure that as far as possible they will enjoy the same rights with Poplar HARCA as they have with the Council. Poplar HARCA will also be required to keep all the promises made to transferring tenants regarding the works proposed during the consultation process.
- 7.2 The following issues will be negotiated with Poplar HARCA in accordance with the policy framework: -
- 7.2.1 TUPE transfer of staff from the managing organisation at the date of transfer both direct where a legal right has been identified and through direct recruitment through indirect pools.
  - 7.2.2 Broadly comparable pension arrangements must be provided. Poplar HARCA are not applying for admitted body status as they already are members of two Pension schemes that are broadly comparable to the Council's Pension Scheme. These schemes satisfy the requirements of TUPE.
  - 7.2.3 Current tenant arrears to be purchased by Poplar HARCA with the Council retaining responsibility for former tenants arrears and leaseholder service charge arrears.
  - 7.2.4 Poplar HARCA to continue to provide temporary accommodation to the Council by leasing back those properties occupied as temporary accommodation at the date of transfer to the Council if this is required.
  - 7.2.5 A sharing agreement for Preserved Right to Buy receipts to take effect five years from the date of transfer in compliance with CLG guidance to minimise gap funding requirements.
  - 7.2.6 Poplar HARCA may extend agreements to purchase services from the Council, subject to the efficiency and effectiveness of the services provided. In each case the price will be calculated to cover the cost of providing the service, including all overheads.
  - 7.2.7 Poplar HARCA to participate in the Local Labour in Construction Scheme.
  - 7.2.8 Poplar HARCA to remain a full partner of the Common Housing Register.
  - 7.2.9 Council and Poplar HARCA to enter into a development agreement and VAT shelter approved by Customs and Excise, to enable the RSL to recover the cost of VAT for refurbishment work.

7.2.10 The provision of a claw back arrangement to provide specific arrangements with Poplar HARCA to share any unanticipated surpluses arising from later development on land forming part of the transfer.

7.2.11 A partnership agreement between the Council and Poplar HARCA, which will require the RSL to work with the Council on joint objectives such as Neighbourhood Management, tackling ASB and implementing key housing strategies such as the Homelessness Strategy.

7.3 The Council will be required to give business and environmental warranties covering information about the homes, tenants and leaseholders and staff to be transferred. The business warranties should be straightforward and in a similar form to those granted in previous transfers.

7.4 A specialist desktop environmental survey has been undertaken. This has concluded that the risks associated with contamination on the Coventry Cross Estate are assessed to be low.

7.5 This means that it should be possible for the Council to take out insurance against the risks of granting environmental warranties to Poplar HARCA. This is the same approach as taken for the Housing Choice transfers to date and will be subject to Poplar HARCA paying the insurance premium. Any sites located within the transfer area that are currently included in the Council's Strategy for identifying contaminated land are being assessed for any specific insurance issues that may arise.

7.6 It has been agreed in principle with CLG that the cost of insurance can be factored into the TMV valuations of the Housing Choice programme. This is being factored into all negotiations on gap funding.

## **8 OPEN SPACE**

8.1 Under the provisions of the Local Government Act 1972, a local authority can only dispose of "Open Space" where it has advertised the disposal for two consecutive weeks in a newspaper circulating in the local area and considered any objections to the proposed disposal which may be made to them. The advert invites inspection from anyone who perceives them selves to be affected and gives them the opportunity to comment.

8.2 'Open Space' is defined in the Local Government Act 1972 and the Town and Country Planning Act 1990 as land "laid out to public gardens or land used by the public for recreation". Use for recreation covers any use, whether formal or informal.

8.3 In practice, housing open space should include land that is being managed and used for play areas, ball games areas, grassed and other planted areas. These should include grassed areas, shrub beds, hedgerows, rose beds, communal hard areas and playgrounds.

8.4 An advert was placed in East End Life on Monday 25<sup>th</sup> Feb 2008 and Monday 3<sup>rd</sup> March 2008. This informed readers that the plans identifying the Housing amenity land to be disposed of were on deposit at the Housing Department Offices at Jack Dash House, Lawn House Close, London E14 9YQ and advised persons who wished to make written observations to send their comments to this address. The closing date for comments was noon 31<sup>st</sup> March 2008.

- 8.5 By the closing date, no comments had been received.
- 8.6 The formal offer documents to tenants on Coventry Cross Estate sets out that Poplar HARCA would be carrying out post-transfer consultation on the development of new homes on the estate, especially around the Stanstead & Newmill Houses. Redevelopment will be achieved without any net loss of open space, albeit some may be relocated.
- 8.7 Discussions are ongoing with Cultural Services as to the amount of valuable open space that will need to be protected. Appropriate covenants will be incorporated in the transfer contract that will require Poplar HARCA to obtain the Council's consent to develop any open space subject to such covenants.

## **9 RIGHTS OF WAY**

- 9.1 The transfer will incorporate all non-adopted estate roads within the estate boundaries in line with the Policy Framework. This means that all future repairing responsibilities will rest with Poplar HARCA.
- 9.2 There is no requirement to ensure that the Council secures preserved rights of way in perpetuity over these roads after transfer. Due to the provisions of the Land Registration Act 2002, where rights of way are required over the transferred land, the retained land of the Council which is to benefit from such rights of way will need to be specifically identified in order for such rights to be registered.
- 9.3 The construction of new homes may encroach upon the existing pedestrian rights of way of RTB leaseholders. Section 237 (1) of The Town and Country Planning Act 1990 allows for such private rights to be overridden where development is carried out in accordance with a planning permission. However this will only apply if the Council disposes of the land for planning purposes. To do this the Council must appropriate the housing land to planning purposes before disposing of it under S233 of the 1990 Act.
- 9.4 Poplar HARCA has therefore requested that the land marked hatched on the appended plan, which may be subject to leaseholders' rights of way (Appendix 1b) be appropriated for planning purposes in accordance with the provisions of Section 122 of the Local Government Act 1972. Again, an advert to this effect is required.
- 9.5 As with the disposal of open space, an advert was placed in East End Life on Monday 25 Feb 2008 and Monday 3 March 2008. The closing date for comments was Monday 31 March 2008. By the closing date, no comments had been received.

## **10 COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 10.1 In broad terms, the revenue consequence of the transfers will be a reduction in income such as rents and service charges but also a reduction in expenditure such as that incurred on repairs and housing management.
- 10.2 The Council will be expected to repay a proportionate amount of its loan debt on transfer but financial assistance will be provided by the DCLG through the arrangements for one off payments to meet overhanging debt. This will be on the

same basis as previous transfers. It is anticipated that the DCLG will issue a special housing subsidy determination to reflect the reduction in outstanding debt.

- 10.3 With reference to the issue of capital receipts from future right to buy sales, in compliance with DCLG guidance, Poplar HARCA will keep 100% of receipts for five years in order to maintain its viability, prior to full sharing with the Council.

## **11 CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

- 11.1 The Transfer of an estate with secure tenants in place can only take place with the Consent of the Secretary of State under the Housing Act 1985, following a positive ballot (the results of which are set out in Para 3.4). This consent has not yet been given and the transfer is lawful only if the Consent is issued. When deciding whether or not to grant consent, the CLG will have regard to whether the Council has adequately consulted with any secure tenants under the requirements of Schedule 3 of the Housing Act 1985.
- 11.2 It is expected that such Consent will include consents under s32 Housing Act 1985 (to dispose of Housing land) and section 25 Local Government Act 1988 (to give resources to a RSL for nominal consideration).
- 11.3 Sections 122 (2A) and 123 (2A) of the Local Government Act 1972 require disposal and appropriation of "open space" to be advertised in a local newspaper in two successive weeks. Open Space is defined as "land laid out as a public garden or used for public recreation." Informal use counts as much as formal designated use. As explained at paragraph 8.5 above all observations and comments received in response should be considered by Cabinet before determining whether to authorise disposal of Open Space. There is no presumption for or against disposal. Members should consider the overall best interests of the Borough as a whole.
- 11.4 It is proposed that the Council will give warranties (including environmental warranties) to Poplar HARCA about the information supplied to Poplar HARCA concerning the land. This is necessary to protect Poplar HARCA and is normal practice in such cases and has been done on many past transfers although such warranties could involve the Council in potential cost if the information was very seriously incorrect. To protect the Council an insurance policy paid for by Poplar HARCA will cover the Council against any future claims in respect of the environmental warranties for the next 10 years. The Council still retains risk for up to eight years after that, although the possibility of any claims against the environmental warranties are likely to become apparent in the early years during the redevelopment of the estates.
- 11.5 The TUPE transfer of staff arises under legislation and cannot be avoided in appropriate cases. The other proposals in the report are standard terms in such schemes and are appropriate to give effect to the Transfer. Whilst the RSL is not legally obliged to accept the Council's proposals on indirect TUPE the Council will require agreement to these proposals as part of the general commercial package.
- 11.6 Some of the proposals set out in this report will be subject to further negotiations with Poplar HARCA. It is therefore appropriate and advisable that authority to negotiate on precise terms of the above proposals and on outstanding issues is delegated to the Corporate Director of Development & Renewal after consultation with the Corporate Director of Resources.



## **12 EQUAL OPPORTUNITIES AND ANTI-POVERTY IMPLICATIONS**

- 12.1 Poplar HARCA has adopted an Equal Opportunities Policy and will implement procedures that reflect the needs and experiences of the community it will serve.
- 12.2 The improvements to the estate through transfer will provide a better quality of life for residents. The proposed stock transfer to Poplar HARCA is to enable resources to be secured to improve housing conditions. Better housing, more say for residents in the management of their homes and measures to promote community development and economic regeneration are central to Poplar HARCA and these factors are key to reducing poverty in the transfer areas.

## **13 SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 13.1 The backlog of investment required to the Council's Housing Stock and lack of resources means that much of the Housing stock suffers from poor thermal efficiency resulting in higher than necessary fuel usage. Only if sufficient resources are identified will it be possible to introduce improvements. Housing Choice currently offers the best opportunity for delivery.

## **14 EFFICIENCY STATEMENT**

- 14.1 The transfer of stock to Poplar HARCA enables £9m of external funding to be invested in the regeneration of the estate and the achievement of the decent homes standard.
- 14.2 Stock transfers are based on the Authority undertaking a rigorous valuation according to DCLG Tenant Market Valuation model and Poplar HARCA preparing a detailed business plan. Transfers require the Secretary of State's consent and in considering an application takes into account "the estimated Exchequer and public expenditure costs represent value for money".

## **15 RISK MANAGEMENT IMPLICATIONS**

- 15.1 The key risks arising from this report are: -

Risk	Mitigating Actions
Failure to complete the transfer	<ul style="list-style-type: none"><li>• Transfer policy framework in place</li><li>• Project Plan to ensure all transfer requirements are addressed</li><li>• Delegated authority sought to agree outstanding issues.</li></ul>
Failure to deliver the promises made to residents	<ul style="list-style-type: none"><li>• Covenants put in place</li><li>• Partnership agreement put in place</li><li>• Monitoring and reporting arrangements put in place.</li></ul>

## **APPENDICES**

Appendix 1 Plans of Coventry Cross Estate