

<b>COUNCIL</b>		
<b>Report Title</b>	Secretary of State Approval Milford Towers	
<b>Key Decision</b>	Yes	Item No.
<b>Ward</b>	Rushey Green	
<b>Contributors</b>	Executive Director of Customer Services, Executive Director for Resources and Regeneration, Head of Law	
<b>Class</b>	Part 1	Date: 18 July 2018

## **1 Purpose of report**

- 1.1 The purpose of this report is to recommend an extension of the leasing scheme that is currently in operation for the properties in Milford Towers in Catford that were previously Council homes and which are being decanted in advance of the regeneration of Catford Town Centre.

## **2 Overview**

- 2.1 Mayor & Cabinet agreed in 2011 to decant the Milford Towers block above the shopping centre in Catford ahead of the long-term regeneration plans for the Catford town centre and subsequently agreed to enter into a leasing arrangement with Notting Hill Housing Trust (now Notting Hill Genesis) to re-let the 1 bed and studio properties on a short-term basis to local residents at an intermediate rent.
- 2.2 This initial leasing arrangement expired at the end of 2015 as demolition in advance of the long term regeneration of the town centre was expected to start in 2016. However due to on-going options reviews including the TFL review of the options for the location of the south circular road, this date was further moved back to December 2018. As a result of these delays, in July 2015 Mayor and Cabinet agreed that the leasing arrangements with Notting Hill be extended for a further three years until December 2018 subject to Secretary of State's consent being obtained under Section 32 of the Housing Act 1985. That consent was duly obtained and the leasing arrangements were extended.
- 2.3 Options for the south circular road have now been determined and agreed by Mayor and Cabinet in July 2017 and the master planning stage for Catford Town Centre will shortly commence.

- 2.4 Due to the time scales allotted to the master planning and development stage, it is envisaged that vacant possession of Milford Towers will not be required until December 2022.
- 2.5 As such, a decision needs to be made by Full Council regarding how Lewisham Council manages the ongoing decant whilst assuring it can ensure vacant possession prior to demolition.
- 2.6 The following recommendations will also be made to Mayor and Cabinet on the 11<sup>th</sup> July 2018; any comments from Mayor and Cabinet will be tabled at the Full Council meeting.
- 2.7 This report was also considered by Housing Select Committee on the 5<sup>th</sup> July 2018. At this meeting the committee noted the report and agreed with the recommendations which were being made to Mayor and Cabinet on the 11<sup>th</sup> July 2018.

### **3 Recommendations**

It is recommended that Full Council:

- 3.1 notes the environmental and financial benefits of the leasing arrangement with Notting Hill Genesis and the rationale for extending the current arrangements;
- 3.2 subject to Secretary of State's consent being obtained under Section 32 of the Housing Act 1985, gives approval for the leasing arrangement to be extended for a further six years to December 2024, with reviews to be held annually, and the ability for both parties to end the arrangement at the annual review stage;
- 3.3 agrees to recommend to Full Council that the Council should apply to the Secretary of State for permission under Section 32 of the Housing Act 1985 to extend the leasing arrangement in the manner set out in this report;
- 3.4 subject to agreement of recommendations 3.2 and 3.3, note the proposed points 7.15 and 7.16 and agree that officers carry out the review as set out in paragraphs 7.16;
- 3.5 delegates authority to the Executive Director for Customer Services, in consultation with the Director of Regeneration and Resources and the Head of Law, to agree the final terms of the extension with Notting Hill and all associated legal documentation.

### **4 Summary**

- 4.1 The process of decanting tenants from Milford Towers began in 2012 as part of the Council's long-term plans to regenerate Catford town centre. As an interim measure, a number of the properties that became

empty were leased to Notting Hill in March 2013 so that they could be let on a short term basis at sub-market rent.

- 4.2 This arrangement was entered into in order to prevent Milford Towers from becoming increasingly empty in advance of the longer term regeneration, whilst also reducing the risk of squatting and anti-social behaviour in the locality. It also provided a mechanism to minimise the amount of rent lost pending regeneration, while offering a housing solution for groups of local residents who may otherwise struggle to obtain self-contained accommodation locally, such as key workers and other people in work on relatively low incomes.
- 4.3 The latest monitoring data show that the scheme has been a success. The majority of the properties are let to residents who are in work but unable to afford full market rents (an estimated 70-75% are in work). 43% of the original tenants who moved in when the scheme started are still in occupation, and 94% of the 2017/18 new lettings were to residents previously living in the south-east sub region (Lewisham, Bromley, Greenwich, Southwark, Bexley). The location provides an excellent base for the number of the residents who work in service trades in London. Furthermore the scheme provides an income to the Council and retains an active income-earning resident base in Catford to help support the shopping centre.
- 4.4 The current short-term leases are due to expire in December 2018, as this was the revised timescale by which the demolition of Milford Towers was expected to commence. Although the options for the location of the South Circular have now been finalised, the master planning phases have just commenced and as such timescales for commencement of demolition have been pushed back further and it is envisaged that vacant possession of Milford Towers will not be required until some point in 2023. Given the success of the scheme to date, officers recommend that the leasing arrangement be extended in the manner set out in the body of this report.
- 4.5 Section 32 of the Housing Act 1985 requires the Council to apply to the Secretary of State for permission to extend the leases in the manner proposed, and the Council's Constitution requires any application to the Secretary of State for disposal consent under Section 32 to be approved by Full Council.

## **5 Policy context**

- 5.1 The contents of this report are consistent with the Council's policy framework. It supports the achievements of the Sustainable Community Strategy policy objectives:
- Ambitious and achieving: where people are inspired and supported to fulfil their potential.

- Empowered and responsible: where people can be actively involved in their local area and contribute to tolerant, caring and supportive local communities.
  - Healthy, active and enjoyable: where people can actively participate in maintaining and improving their health and well-being, supported by high quality health and care services, leisure, culture and recreational activities.
- 5.2 The proposed recommendations are also in line with the Council policy priorities:
- Strengthening the local economy – gaining resources to regenerate key localities, strengthen employment skills and promote public transport.
  - Clean, green and liveable – improving environmental management the cleanliness and care for roads and pavements and promoting a sustainable environment.
- 5.3 Lewisham’s Housing Strategy for 2015 – 2020 identifies four priorities: helping residents at times of housing need; security and quality for private renters; improving our residents’ homes; building the homes our residents need. The Council’s assets can play a role in this, creating opportunities to develop new housing supply of all tenures, making land available for the construction of new homes and by using an understanding of the borough to improve the way service delivery connects with communities at a local level.

## **6 Background**

- 6.1 The Council has been preparing long-term regeneration plans for Catford Town Centre for a number of years. In order to realise those plans it is necessary to achieve the full vacant possession of all of the Council’s assets in the area, including the Milford Towers block which sits above the Catford shopping centre.
- 6.2 Milford Towers comprises 276 residential units which were all previously Council homes let on social rents and managed by Lewisham Homes. The scheme has a preponderance of studio and one bed flats, limiting the range of household types and sizes which could be accommodated there, and creating a range of housing management pressures. In advance of the longer-term plans for regeneration, Mayor and Cabinet agreed in September 2011 that the decant of Milford Towers should commence, enabling officers to work with secure tenants to find alternative accommodation. At that time the Mayor also agreed to the implementation of a leasing scheme as the best mechanism for providing appropriate security measures, whilst maintaining a useful form of housing provision and also generating a small income stream for the Council.

6.3 In March 2013 a leasing scheme with Notting Hill Housing was approved, to enable Notting Hill Housing to provide short term housing for local people receiving low incomes, but who would not be eligible for social housing. At that time the following policy objectives were agreed for the project:

- To prevent Milford Towers becoming increasingly deserted during the development process and help maintain it as an occupied and thriving community
- To maintain security through the presence and occupation of tenants and thereby to reduce the risk of properties being squatted
- To help address the fear and risk of crime and anti-social behaviour that is associated with deserted estates
- To provide much needed low-cost rented accommodation to help meet housing need, and by promoting the scheme locally to target the opportunity to local people on low incomes.
- To maintain a revenue stream for the Council, helping to maintain the viability of the town centre and support the long term regeneration plans
- To maintain a number of homes to be available for use as temporary housing for homeless households, reducing the Council's reliance on more expensive forms of temporary accommodation
- To achieve all of these objectives in a manner that helps to ensure that full vacant possession of Milford Towers can be achieved in an orderly manner and at the time it is required to enable demolition.

6.4 The leasing scheme was originally framed to expire at the end of December 2015, and was then later extended to expire at the end of December 2018 as that was the time at which it was expected that vacant possession would be required in order to demolish the block. It is now no longer the case that demolition will take place early next year and as such this report presents a summary of the operation of the scheme to date and recommends that it be extended for up to a further four years, with an annual review process and the ability for both parties to end the arrangement at the annual review stage.

## **7 Operation of the scheme and rationale for extension**

7.1 Over the past six years officers have been supporting the decant of the Council tenants and, since this leasing arrangement was finalised, an increasing number of the homes that have become vacant have been leased to Notting Hill Genesis. As at the end of May, the latest tenancy information for the 276 residential units was as follows:

Tenancy type	Number
Remaining social tenants	17
Remaining leaseholders	18
Decanted properties used for temporary housing for homeless households	49
Decanted properties leased to Notting Hill Genesis	191
Voids	1
<b>Total</b>	<b>276</b>

- 7.2 The properties that are used for temporary housing, as well as the remaining tenants and leaseholders, are managed on behalf of the Lewisham Council by Lewisham Homes, while the other units are managed by Notting Hill Genesis. In order to maintain the effectiveness of this mixed management approach Lewisham Council officers hold regular multi-agency meetings to monitor performance, ensure that the properties are let and managed in accordance with the contract, and to monitor anti-social behaviour in the locality. This group has effective working relationships with a range of local partners, such as the police, and has achieved significant success in resolving issues – such as crime, ASB and rough sleeping – as they arise.
- 7.3 As the table above shows, the scheme has achieved its first key policy objective, in ensuring that throughout the decant process Milford Towers remains fully let and occupied pending the regeneration. Furthermore the latest monitoring data that Notting Hill Genesis has for its tenants shows that the scheme is also achieving its objectives in relation to providing a housing option for local low income workers, and a recent survey of tenants has showed a high level of satisfaction.
- 7.4 In relation to providing a housing option for local low income workers, the monitoring data and analysis of housing benefit receipt shows that of the 191 flats that are leased through Notting Hill Genesis, between 70% and 75% of residents are in work. The majority of properties are let to residents who previously were resident in Lewisham or in Bromley, Bexley, Greenwich or Southwark which collectively make up the south east London “sub-region”. In 17/18 94% of new tenants moved to Milford Towers from south east London.
- 7.5 In advance of considering the merits of extending the lease arrangement, Notting Hill Genesis undertook a survey of its residents to ascertain their level of satisfaction with their homes and with Milford

Towers generally. A sample of 14% of the residents were surveyed and based on the results so far the main findings of this exercise were:

- Overall satisfaction levels are 70% overall, which is slightly higher than the overall satisfaction rate for all Notting Hill Genesis customers.
- 77% of the residents are satisfied with their homes. .
- 62% of the tenants are satisfied with the local area (31% happy or very happy).
- Their tenancy in Milford Towers has allowed many residents to maintain their jobs in London and maintain their links to local schools and hospitals. 85% would like to carry on living at Milford Towers and would welcome any extension of the lease

7.6 Lewisham Council have a positive working relationship with Notting Hill Genesis, and officers are pleased with the resources provided for the scheme. Two officers are allocated to Milford Towers full time, who maintain a regular on-site presence and have an in-depth knowledge of the area and residents. Notting Hill Genesis also provides to their tenancy sustainment and employment service, which includes in-depth benefits and welfare advice and assistance.

7.7 Rent levels have been maintained by Notting Hill Genesis throughout the leasing period at Local Housing Allowance rate or below, meaning that the properties continue to be accessible for low-income households and those in receipt of full Housing Benefit

7.8 There are currently 17 social tenants remaining on the estate and the decanting of these residents is ongoing. There are also 18 leaseholders, and the voluntary buy-back of these properties is currently underway.

7.7 The long term regeneration of the town centre was originally envisaged to commence in 2016 which was further extended, and as such the expected date for vacant possession – and therefore the current end date of the current lease arrangement – is December 2018. However, as a result of the on-going review of a range of long term options, and especially the options to re-site the South Circular – which would have significant effect on the development site available for regeneration – the expected date for the commencement of regeneration has been further pushed back.

7.8 The Council has been working in partnership with Transport for London to develop a scheme which marries the aspirations of the Council and TfL for reducing traffic dominance in the town centre, prioritising walking, cycling and public transport without causing significant problems elsewhere on the strategic transport network. After almost two years of collaboration in summer 2017 the Mayor agreed an outline

scheme which relocates the south circular to the edge of the town centre. £200k of council funding has also been committed into working up this design in partnership with TfL.

- 7.9 Work to develop a new master plan for the town centre could not commence until certainty on this critical infrastructure move had been achieved. Officers have now completed an assessment of bid submissions for the master planning role and an appointment report will be considered by Mayor & Cabinet Contracts at the end of June. Once the appointment is agreed a new master plan framework will be developed over the course of approximately 10 months (by April 2019).
- 7.10 Once the master plan has been completed, the timescales leading up to demolition of Milford Towers will become clearer. It is unlikely that demolition will be necessary until planning consent is achieved for the redevelopment of the site and agreement over decant is reached with the food store operator. The complicated stacked arrangement of uses with a Tesco food store underneath the Milford Towers housing means that agreement also needs to be reached with third party interests prior to demolition. It is unlikely that demolition could begin before the end of 2022 for these reasons.
- 7.11 Officers propose submitting an application to Secretary of State for an extension to the current lease arrangement, for a period of 6 years, which provides sufficient cover in the event that vacant occupation is not needed until further in to 2023, and also allows for a buffer as a mitigation against needing to seek approval for a shorter extension in the event of timescales being pushed back.
- 7.12 Given the need to continue to provide a secure and effective leasing scheme, as vacant possession will not be required this year as expected, officers have considered both re-tendering the lease arrangement and re-negotiating the existing arrangement, and believe that the latter offers the best balance of value for money and practical housing management benefits.
- 7.13 The alternatives – re-tendering – would require a significant amount of staffing input and financial costs to the Council, as 191 leases would need to be re-issued over a short period of time. This would be unsettling for the existing tenants, potentially require existing tenancies to be terminated and new tenancies entered into, and would also put at risk the existing successful arrangement by removing housing management team which has built up excellent knowledge and experience of the estate and its tenants, and replacing it with a new housing manager.
- 7.14 As such, officers have concluded in-principle negotiations with Notting Hill about a further extension to the existing arrangement pending the formal decision making that is required by Mayor and Cabinet and by Full Council.



- 7.15 Since the leasing arrangements commenced with Notting Hill Genesis, the operating environment and demand for affordable housing has changed. The Council has accepted a homeless duty to over 3,500 households during the past five years, and the Council faces an ever more challenging housing context with the number of households in Temporary Accommodation up 110% since 2010/11 and the number of social lets available down by 42% over the same period. With the implementation of the Homeless Reduction Act which came into force in March 2018 and the obligations it places on us as a Council to prevent homelessness, supply of properties for use for homelessness prevention and relief is less than the demand for such properties.
- 7.16 Due to these changes, officers have in-principle agreed with Notting Hill Genesis that, for all properties that become void in the coming period, both a low-cost PRS tenancy and a short term tenancy to a household that has presented as at risk of homelessness will be considered. This could equate to about 25 properties per year, and could provide a useful source of additional emergency local accommodation for residents at risk of homelessness.
- 7.17 Finally it should be noted that the original financial and investment model agreed with Notting Hill Genesis was designed to enable four years of use of the properties. This period has already been extended and by the end of the extension proposed here, the properties will have been in use for a further ten, not four years. As a result some cyclical and minor works are likely to be required throughout this period, and officers will agree the extent and cost implications of these on a case by case basis with Notting Hill Genesis.

## **8 Proposed terms of lease extension**

- 8.1 There are two main factors for consideration in renewing the existing lease – firstly the timeframe it should be extended for, alongside any agreements to break the arrangement early, and secondly the financial arrangements including the balance of returns to each party.
- 8.2 On the former, both parties have agreed to the extension of the existing arrangement for a further four years up until the end of 2022, with an annual review process to enable either party to end the arrangement in an orderly and planned manner. Officers consider this to be an appropriate balance between ensuring that a successful project is retained and the potential need to seek vacant possession as regeneration plans are brought forward.
- 8.3 On the latter, the key considerations are the rent that is charged to tenants and the management and maintenance costs that Notting Hill Genesis will incur.
- 8.4 The income generated for the Council annually is estimated to be between £900k and £950k, for each of the four years that the scheme is proposed to be extended for.

## **9 Timetable and next steps**

- 9.1 In making the decision to enter into a leasing arrangement with Notting Hill (now Notting Hill Genesis) in 2013, the Council relied on a general consent in the Housing Act 1985, which allowed it to grant a lease for up to seven years without seeking the consent of the Secretary of State for Local Government. However it has no such power to extend a lease arrangement as proposed here, and as such Secretary of State approval will be required to implement the recommended extension.
- 9.2 The Council's Constitution requires that Full Council approval is required in order for the Council to apply for Secretary of State approval, and as such the Mayor is recommended to request that Full Council should consider this issue and ratify the decision to apply for consent.
- 9.3 The current leases will expire in December 2018. The lead time on obtaining Secretary of State consent is currently estimated to be at least three months. It will therefore be necessary for this decision to be ratified by Full Council as quickly as possible. Consent must be obtained and the new leases put in place before the expiry of the existing leases, in order to avoid problems with the status of the existing Notting Hill tenants as their tenancies would otherwise automatically terminate on the expiry of Notting Hill's leases.

## **10 Comments of the Housing Select Committee**

- 10.1 The Housing Select Committee (HSC) received and reviewed a draft of this report in advance of the Mayor and Cabinet meeting. Their comments have been provided as an addendum to this report.

## **11 Financial implications**

- 11.1 Under the current arrangements with Notting Hill, the Council received approximately £954k in the last financial year.
- 11.2 It should be noted that the additional income will cease once the planned demolition of the block commences. This means that the additional income could be used to support short term pressures rather than form a part of the Council's longer term financial strategy.

## **12 Legal Implications**

- 12.1 Under Section 32 of the Housing Act 1985 a local authority may not dispose of land held for housing purposes (Part II) without the consent of the Secretary of State. The grant of a lease of any length is a disposal for this purpose. If agreed, the extension of the existing leasing arrangements will need to be dealt with by granting new leases of all of the properties to Notting Hill. On 13 March 2013, the Secretary of State issued a series of General Disposal Consents under Section

32. General Consent A4.2.1 provides that a local authority may grant a lease of a term of less than 7 years and the Council was therefore able to rely on this General Consent to grant the original leases to Notting Hill and a specific disposal consent was not required. However, on the expiry of a tenancy covered by General Consent A4.2.1, the Council is not allowed to grant a further tenancy until one year after expiry of the original tenancy. There is no other General Consent that applies which means the Council is required to apply for a specific consent under Section 32 to enter into the new leases. Under the Council's Constitution, any application for disposal consent under Section 32 is required to be approved by Council. This was also required for the previous extension of the lease arrangements.

- 12.2 The Equality Act 2010 (the Act) brings together all previous equality legislation in England, Scotland and Wales. The Act includes a new public sector equality duty (the duty), replacing the separate duties relating to race, disability and gender equality. The duty came into force on 5 April 2011.
- 12.3 The duty consists of the 'general equality duty' which is the overarching requirement or substance of the duty, and the 'specific duties' which are intended to help performance of the general equality duty.
- 12.4 The duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 12.5 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.

These are often referred to as the three aims of the general equality duty.

- 12.6 As was the case for the original separate duties, the new duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 12.7 The Equality and Human Rights Commission (EHRC) have issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Equality objectives and the equality duty
3. Equality information and the equality duty
4. Meeting the equality duty in policy and decision-making
5. Engagement and the equality duty

All the guides have now been revised and are up to date. The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

- 12.8 The EHRC guidance does not have legal standing. Unlike the statutory Code of Practice on the public sector equality duty which was due to be produced by the EHRC under the Act. However, the Government has now stated that no further statutory codes under the Act will be approved. The EHRC has indicated that it will issue the draft code on the PSED as a non statutory code following further review and consultation but, like the guidance, the non statutory code will not have legal standing.

### **13 Crime and Disorder Implications**

- 13.1 The leasing scheme is helping to manage crime and disorder by maintaining a presence of tenants on the estate, through effective housing management and through effective partnership working between housing providers, the police and other partners.

### **14 Equalities Implications**

- 14.1 The proposals in this report will enable the low income worker tenants of the Milford Towers blocks to sustain their tenancies and avoid the need for short notice evictions as the leasing arrangement comes to an end.

### **15 Environmental implications**

- 15.1 There are no environmental implications arising directly from this report.

### **16 Background documents and originator**

16.1 The following sets out the background documentation that is relevant to this report:

<b>Short Title of Document</b>	<b>Date</b>	<b>Location</b>	<b>Contact</b>
Catford Town Centre – Phase 1 Next Steps – Part 1 Summary	13 July 2011	Available at this <a href="#">link</a>	Jeff Endean 020 8314 6213

16.2 If you would like any further information on this report please contact Jeff Endean on 020 8314 6213.