

**Cabinet Member Delegated Decision - 15 June 2017**

**Report title: Transfer of housing stock in Cherwell District Council and Mendip District Council to Sanctuary Housing**

**Wards:** All

**Portfolio:** Councillor Jenny Brathwaite, Cabinet Member for Housing and Environment

**Report Authorised by:** Sue Foster Strategic Director, Neighbourhoods and Growth

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**Report summary**

This report seeks approval to transfer 21 Lambeth council-owned and managed properties in Banbury (Cherwell District Council) and 4 properties in Frome (Mendip District Council) to Sanctuary Housing. The properties are the remainder of two small housing estates purchased by the council in 1979 that sit within the Housing Revenue Account (HRA), the rest of the properties having now been sold via the Right to Buy. For largely practical reasons the stock has been maintained on a reactive basis only with no capital investment; there are presently 14 long cycle voids across both locations.

Because of the significant cost of re-investing in the stock and the long-term interest of Sanctuary Housing in acquiring it (Sanctuary Housing are now the main provider of social housing in Cherwell District Council, the main location) Lambeth have pursued, with the support of both of the host local authorities, a small scale stock transfer, to Sanctuary Housing, as the best method of improving these properties and consider this to be the best outcome for residents.

**Finance summary**

Sanctuary Housing have provided an offer for the stock, which has been verified by an independent valuation. This provides Lambeth with a net capital receipt, (after redeeming the existing debt on the stock) of £312,017.

The transfer of the stock reduces the future capital investment required across the HRA by £816,791 and also reduces the Public Works Board (PWB) loan debt in the HRA by £321,925. There will therefore be a net benefit to the Lambeth HRA when this transfer proceeds.

## **Recommendations**

1. To note the outcome of the ballot conducted by Electoral Reform Services and to report the outcome of the ballot to the Greater London Authority (GLA) and Department for Communities and Local Government (DCLG).
2. To delegate to the Strategic Director of Neighbourhoods and Growth the authority to progress the negotiation of the financial and other terms of the proposed transfers to the point of completion of the transfers, subject to Full Council approving the application to the Secretary of State as per (1) above, and subject to the Secretary of State granting consent.
3. That subject to the adoption of recommendation (2) above, the Cabinet Member recommends to Full Council that an application be made to the Secretary of State for consent to the transfers in respect of the 21 properties owned and managed by Lambeth in Banbury (Cherwell District Council) and 4 properties in Frome (Mendip District Council) to Sanctuary Housing.

## **1. Context**

- 1.1 Lambeth owns and manage 21 housing properties in Banbury (Cherwell District Council) and four in Frome (Mendip District Council) which sit within the HRA. These were acquired in 1979 and are managed from the South Area Office. They are not included in planned maintenance or in any of our capital works programmes and only reactive repairs are carried out to them on an as and when required basis. There are 12 long cycle voids in Banbury and 2 long cycle voids in Frome.
- 1.2 The proposal to transfer ownership and management of these properties to Sanctuary Housing will meet the outputs of the Lambeth 2016-2019 Community Plan by (a) Providing a safer environment for vulnerable adults, (b) Reducing the potential for crime locally, (c) Providing the residents with a localised service tailored to their needs and (d) Providing better quality homes for the tenants

## **2. Proposal and Reasons**

- 2.1 Officers received a proposal from Sanctuary Housing some time ago suggesting that Lambeth transfer to them the stock that Lambeth has in Cherwell District Council. Sanctuary Housing made this approach after taking over the properties in that area owned by Shaftesbury Housing Association who, in turn, had originally acquired the stock from Cherwell District Council via a Large Scale Voluntary Transfer (LSVT) in 2001.
- 2.2 Lambeth consider Sanctuary Housing to be an attractive alternative landlord for the small number of Lambeth tenants in Banbury as (a) their stock surrounds the single cul-de-sac with the Lambeth homes and (b) Sanctuary Housing is a Register Provider (RP) with an established presence in Lambeth – therefore local residents who transfer to Sanctuary could be said to maintain a connection with a social landlord with housing in the Lambeth area that they could transfer to (or do a mutual exchange with) should they so wish. This would not be the case with the limited number of other RP partners that exist in the Cherwell District Council area.

2.3 The council subsequently broached with Sanctuary the possibility of the 4 properties owned by Lambeth in Mendip District Council being included in this transfer as a way of rationalising the councils out of borough stock holdings to the advantage of all parties whilst securing an improved service for the tenants.

2.4 It is further considered that a transfer of the stock to Sanctuary Housing is a good route for the council to pursue for the following reasons:

- (1) The stock in Cherwell and Mendip has had little investment other than re-active repairs and, therefore, it's required investment were it to be retained by Lambeth would need to be identified from money currently earmarked for in borough stock
- (2) The Sanctuary Housing capital receipt is large enough to pay off the outstanding Public Works Board loan debt on the stock of £321,925 (£12, 877 per unit) and still leave Lambeth with a net receipt
- (3) These factors taken together mean that the Sanctuary proposal produces a positive outcome for the HRA both currently and in terms of future capital and maintenance requirements

2.5 The benefits to Lambeth residents in Cherwell and Mendip from the transfer include:

- A promise to keep rents affordable and set within Government guidelines
- The rights that existing tenants enjoy under Lambeth Council will be protected through contractual clauses in their new tenancy agreements as Assured Tenants with Sanctuary Housing except for the Right to Manage
- A preserved Right to Buy to existing tenants
- Involvement in the management of their homes through participation in a local Scrutiny Panel run by Sanctuary Housing
- Access to events organized in conjunction with Age UK across both local authority areas
- Fitting of aids and adaptations up to a value of £750
- The ability to transfer to Sanctuary Housing stock across the UK including Lambeth within allocation policies approved by the Homes and Community Agency (HCA)

2.6 The Council has consulted the tenants in Cherwell DC and Mendip DC on the proposed stock transfer (prior approval for this was given by the Cabinet Member for housing by delegated decision on 28<sup>th</sup> July 2016). The outcome of the ballot showed that a majority of the tenants were in favour – more details of this are contained in Section 5 of the report. The Cabinet Member for Housing is therefore asked to recommend to Council under delegated authority that it approves the proposed stock transfers in each area and requests that the Secretary of State consents to the transfers

2.7 The Council has met with its statutory duty to consult and has also consulted and obtained the approval of the GLA throughout this process.

### **3. Finance**

- 3.1 The 25 properties in Cherwell and Mendip currently have a projected gross cost to Lambeth of £1,107,300. This is composed of an outstanding Public Works Board loan debt of £321,925 (£12,877 per unit) and the refurbishment costs that the 25 units would require were they to be retained of £785,375 (£31,415 per unit). The latter figure is important as the units do not meet the Decent Homes Standard or the Lambeth Homes Standard, having been excluded from these programmes due to their out of borough location.
- 3.2 The Sanctuary offer to Lambeth provides a net capital receipt of £312,017 (this sum being their offer of circa £633,942 minus the outstanding PWB loan debt) for the 25 units which would contribute to the Council's single capital financing pot to be utilised across the capital programme and see Sanctuary take on responsibility for any future refurbishment of the homes.
- 3.3 The majority of these properties are currently void and as such provide no rental income to the HRA; this is covered within the HRA Business Plan through the allowed void rate and will not make a material difference to HRA income. The Business Plan also includes an assumption for a level of stock loss relating to the sale of high value voids based on the limited information currently available. The impact of this stock transfer is unlikely to make a material difference to that assumption.
- 3.4 The units are currently managed from the South Area Office. There would be no impact on staffing should they transfer – however the time taken up by staff at present dealing with issues in Cherwell and Mendip would be redeployed elsewhere thus representing a gain in service quality for Lambeth residents.
- 3.5 There has been a small administrative cost to Lambeth associated with the transfer process. Most of this is due to the costs of retaining an Independent Tenant Adviser (ITA) to assist the tenants and in employing Electoral Reform Services to carry out an independent ballot. This expenditure will amount to a maximum of no more than £5,000.

### **4. Legal and Democracy**

- 4.1 The duty to consult with tenants is prescribed in Section 106a and Schedule 3a of the Housing Act 1985. The Secretary of State is under a duty to refuse to give consent to the transfer if it appears to him that the majority of the secure tenants who would be affected by the disposal oppose the proposal.
- 4.2 The consultation requirements referred to above are as follows: The Council must serve notice in writing on the tenants informing them of such details of their proposal as the Council consider appropriate; but including the identity of the organisation to whom the disposal is to be made; the likely consequences of the disposal for the tenants and the effect of the provisions of Schedule 3A including the in the case of secure tenants the preservation of the Right To Buy on disposal to the new landlord. , Further the

tenants must be advised that they may within such reasonable period as may be specified in the notice, make representations to the Council.

4.3 The Council must consider any representations made to it within that period and then must serve a further written notice on the tenant informing them of any significant changes in their proposal and that they may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Secretary of State their objection to the proposal, and that consent will be withheld if the majority of tenants are opposed.

4.4 Once the above notice has been served the Council must arrange a ballot of the tenants to establish whether or not the tenants wish the disposal to proceed.

4.5 Pursuant to the requirements of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended certain decisions relating to the transfer of housing land can only be authorised by Full Council.

4.6 These decisions include any proposed disposal of housing land where the consent of the Secretary of State is required under sections 32 or 43 of the Housing Act 1985.

4.7 Section 32 of the Housing Act 1985 permits local housing authorities to dispose of land held for the purposes of part 2 of that act in any manner they see fit, subject to obtaining the consent of the Secretary of State. In the case of any proposed disposal which is not covered by a general consent (and where therefore an application to the Secretary of State for specific consent is required) the authorisation of the application must be obtained from the full Council before the application is made.

4.8 Section 32 of the Housing Act 1985 permits local authorities to dispose of land held for the purposes of Part 2 of that Act in any manner they see fit, subject to obtaining the consent of the Secretary of State. In the case of any proposed disposal which is not covered by a general consent (and where therefore an application to the Secretary of State for specific consent is required) the authorisation of the application must be obtained from the full Council of the local authority before the application is made.

4.9 Under Section 34 of the Housing Act 1985 the matters to which the Secretary of State may have regard in determining whether to give consent and, if so, to what conditions consent should be subject includes:

- The extent (if any) to which the proposed disposal would result in the intending purchaser becoming the predominant or a substantial owner in any area of housing accommodation let on tenancies or subject to licences
- The terms of the proposed disposal
- Any reduction in the amount that the local authority may be required to pay under section 69 of the Housing and Planning Act 2016 (payments to the Secretary of State in respect of higher value housing in England) as a result of the disposal.

4.10 For the purpose of determining the amount payable under section 69 of the Housing and Planning Act 2016 the secretary of State will, where an authority has disposed of housing under sections 32 or 43 of the Housing Act 1985 to a registered provider of social housing:

- Treat the local housing authority as still having that housing and
- Treat the housing as being likely to become vacant whenever it would have been likely to become vacant if it had not been disposed of

4.11 Section 149 of the Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other forms of conduct prohibited under the Act and (b) to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic (age, disability, gender re-assignment, pregnancy and maternity, race, religion and belief, sex and sexual orientation) and persons who do not share it.

4.12 Having regard to the need to advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share it involves having due regard in particular to the need to: (a) remove and minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic (b) take steps to meet the needs of the persons who share that characteristic that are different from the needs of persons who do not share it and (c) encourage persons of the relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

4.13 This proposed key decision was entered in the Forward Plan on 21<sup>st</sup> October 2016 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision maker before the decision is taken. A further period of five clear days – the call in period – must then elapse before the decision is enacted. If the decision is called in during this period it cannot be enacted until the call in has been considered and resolved.

## **5. Consultation and co-production**

5.1 An initial, informal, meeting was held in Banbury in July 2015 involving Lambeth officers, tenants and a representative of Cherwell District Council. At this meeting Lambeth advised the residents of the Council's decision to explore a transfer of their homes to Sanctuary Housing. The households in Mendip were written to and told that Lambeth would consult them formally on transferring their homes to Sanctuary Housing. Housing officers of Mendip District Council were aware of this and supported the process.

- 5.2 Residents were consulted on the offer made by Sanctuary according to the consultation framework governing stock transfers. This is formally described at the Offer Document Stage and is called Stage 1 and Stage 2, Stage 1 being the distribution of the Offer Document and the consultation process that follows this and Stage 2 the ballot. The council retained the services of Newman Francis as an Independent Tenant Adviser to assist the residents in this process.
- 5.3 Officers discussed the proposal with the GLA. The council followed, as required by statute, the processes set out in the Housing Act 1985: Schedule 3A when consulting and balloting residents.
- 5.4 The tenants in both Cherwell District Council and Mendip District Council were balloted on whether they wished to transfer to Sanctuary Housing. The ballot was carried out by Electoral Reform Services on behalf of Lambeth with voting closing on 10<sup>th</sup> November 2016.
- 5.5 By the time the ballot commenced there were 14 tenants who were eligible to vote across both locations. Electoral Reform Services reported that the turnout was 50% with 7 tenants voting in total. Of these 6 (85.7%) voted in favour of the transfer and 1 (14.3%) against. A majority vote in favour of the transfer occurred in both locations.
- 5.6 Following the formal reporting of the outcome of the ballot, officers advised Cherwell District Council, Mendip District Council, the GLA and the DCLG of the decision by tenants to support the transfer to Sanctuary Housing. Newman Francis wrote to each household advising them of the outcome of the ballot.

## **6. Risk management**

- 6.1 The presence of a significant number of long cycle voids in Banbury represents a hazard to people living in the area. There have been issues to do with squatting and general disrepair for which Lambeth is presently deemed liable. This report seeks to eliminate the risk to the authority by, ultimately, resolving this whilst protecting the rights of local tenants and ensuring that their homes are modernised.

## **7. Equalities impact assessment**

- 7.1 An EIA was carried out in June 2016 and found that the majority of the tenants in Banbury are elderly and some of these are over 85 years of age. Transferring the stock to Sanctuary Housing was found to have a positive impact and will provide residents with a wider and more accessible range of services for their needs than Lambeth can currently provide.

## **8. Community safety**

8.1 Sanctuary Housing plan to immediately refurbish the long cycle voids in Banbury and Frome. It is expected that this will improve community safety in the areas.

**9. Organisational implications**

9.1 Environmental

None

9.2 Staffing and accommodation

None

9.3 Procurement

None.

9.4 Health

See comments in 7.1 above relating to improved services for elderly residents.

**10. Timetable for implementation**

10.1 As residents have voted in favour of a transfer, Lambeth would wish to complete the transfer and obtain the capital receipt offered by Sanctuary Housing by 30<sup>th</sup> Sept 2017

10.2 The transfer will only take place after approval has been granted by the council and Secretary of State. It is not possible at this stage to be completely precise about the dates and timing of each stage – but the above date although indicative is considered achievable by Lambeth and Sanctuary.

10.3 The GLA are aware that Lambeth are considering a transfer of this stock and consultation has taken place with them alongside this process.

## Audit trail

Consultation				
Name/Position	Lambeth directorate/department or partner	Date Sent	Date Received	Comments in para:
<i>Sue Foster</i>	Strategic Director for Neighbourhoods and Growth	12-04-17	14.04.17	
<i>Rachel Sharpe</i>	Director of Strategic Housing, Regeneration and Communities	04-04-17	12-04-17	
<i>Mandy Green</i>	Assistant Director Homes and Communities	03-03-17	09-03-17	
<i>Andrew Ramsden</i>	Head of Finance Neighbourhoods and Growth	03-03-17	20-03-17	
<i>Greg Carson</i>	Legal Services: Corporate Resources	03-03-17	31-03-17	4.1 to 4.12
<i>Maria Burton</i>	Democratic Services	29-03-17	31-03-17	4
<i>Councillor Jenny Brathwaite</i>	Cabinet Member for Housing and Environment		02.05.17	

## Report history

<b>Original discussion with Cabinet Member</b>	01-04-2015
<b>Report deadline</b>	n/a
<b>Date final report sent</b>	n/a
<b>Report no.</b>	n/a
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	No
<b>Key decision report</b>	Yes
<b>Date first appeared on forward plan</b>	11-12-2015
<b>Key decision reasons</b> Delete as appropriate or state N/A	2. Expenditure or savings in excess of £500,000
<b>Background information</b>	ODDR agreed by Cabinet Member for Housing 28 <sup>th</sup> July 2016 authorising proceeding to a ballot of tenants in both locations: <a href="http://moderngov.lambeth.gov.uk/ieDecisionDetails.aspx?ID=3734">http://moderngov.lambeth.gov.uk/ieDecisionDetails.aspx?ID=3734</a>  Housing Stock Transfer Guidance to 31.3.2016 <a href="https://www.gov.uk/government/publications/housing-transfer-manual-period-to-31-march-2016">https://www.gov.uk/government/publications/housing-transfer-manual-period-to-31-march-2016</a>
<b>Appendices</b>	The "Offer" Document prepared by Sanctuary Housing for the two estates.

**APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME OF DELEGATION**

**I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board and taken account of their advice and comments in completing the report for approval:**

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Post** Simon Matthews, Project Manager, Commissioning – Housing  
[smatthews@lambeth.gov.uk](mailto:smatthews@lambeth.gov.uk)

**I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:**

**Signature** \_\_\_\_\_ **Date** 14 June 2017

**Post:** Councillor Jenny Brathwaite

Cabinet Member for Housing and Environment

**Any declarations of interest (or exemptions granted):**

**Issue**

**Interest declared**