

# Delegated Decisions report



23 March 2021

## MELLISH COURT, BLETCHLEY, AND THE GABLES, WOLVERTON - TO CONSIDER A LEASEHOLDER SHARED EQUITY OFFER, COMMENCING COMPULSORY PURCHASE ARRANGEMENTS, AND WARDEN PATROL UPDATE

Name of Cabinet Member	<b>Councillor Emily Darlington</b> (Cabinet member for Public Realm and Housing Services)
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Exempt / confidential / not for publication	<b>No</b>
Council Plan reference	<b>Ref number: N/A</b>
Wards affected	Wolverton and Bletchley

### Executive Summary

The Delegated Decision on 9 March 2021 decided to demolish both tower blocks and provide new homes at these sites, considering wider Council ownerships. In that delegated decision we said we'd follow on with this delegated decision to propose a Leaseholder Shared Equity Offer, to collate information to fully consider the commencement of compulsory acquisitions under the relevant statutory powers and update on plans for the warden service.

## Information

### Resident Leaseholder Shared Equity Offer

This is a time limited offer, from 1 April 2021 to 31 May 2021, and is available only to resident leaseholders within Mellish Court and The Gables. It is proposed as an alternative offer to support leasehold residents to relocate.

The summary principles of this offer are:

1. Resident leaseholders agree to put at least the full value of their existing property (made up of their equity in the property plus the value of any outstanding mortgage) plus all their home loss payment into the purchase of any suitable alternative property.
2. The Council may offer the resident leaseholder an interest free equity loan to make up the difference between the leaseholder's contribution and the market value of the property (up to specifically agreed limits stated within the scheme).
3. Any property requiring more than £5,000 of works in order to bring the property up to a liveable standard will fall outside the scheme.
4. Any equity loan will be paid back when the property is sold, re-mortgaged, the mortgage expires, or the property enters probate.
5. The property being purchased is purchased on a repayment mortgage and not an interest only mortgage (should a mortgage be required).
6. The resident leaseholder will be responsible for all repairs and maintenance to a good standard.
7. The resident leaseholder must insure the property with a reputable buildings insurance company and provide the Council, upon request, a copy of the current policy.
8. The resident leaseholder must not run or allow to be run a business from the premises.

Leaseholders are to contact Will Rysdale, Head of Housing Delivery ([will.rysdale@milton-keynes.gov.uk](mailto:will.rysdale@milton-keynes.gov.uk)) for full details on this offer if they wish to consider it. The final day to contact Will about this offer is 31 May 2021. After this date the existing sale offer will remain open and the compulsory purchase order process will commence for those leaseholders who have not agreed a proposal to leave either Mellish Court, or The Gables.

### Compulsory Purchase Order (CPO) Process

The CPO process is proposed for leaseholders, their tenants and telecoms companies where no agreement to decant from either Mellish Court or The Gables has been reached yet. Compulsory purchase to secure the assembly of any remaining leasehold interests needed for the implementation of the scheme is intended as a last resort, because of its draconian nature. However, the Ministry of Housing, Communities and Local Government's Guidance on the Compulsory Purchase Process and the Crichel Down Rules recognises that if the Council was to wait for negotiations to break down before starting the compulsory purchase process, valuable time would be lost. Therefore, it is advised that the Council runs the compulsory purchase process in parallel with continued negotiations.

Officers have engaged with independent consultancy, Carter Jonas, who have written an initial report setting out the compulsory purchase process and Government guidance on the use of compulsory purchase powers. The report is attached as an **Annex** and considers the following:

- the most appropriate compulsory purchase power for the Council to use;
- the principal points to be made in justifying an order under the relevant power;
- the case to be made in the Statement of Reasons (SofR) that is required to support any CPO that is made;
- the tests that will be applied to the CPO(s) by the Secretary of State and in the event of an inquiry, the inspector appointed to the on the Secretary of State's behalf; and
- the recommended actions for the Council to take in preparation for meeting those tests.

Carter Jonas will also provide an initial report giving an overview of the Electronic Communications Code, the statutory protections that Code operators benefit from, and the mechanisms by which the Council can enable their removal from the subject Properties. The report will outline the options available to the Council both as a "statutory undertaker" assuming a CPO is made, and as a private property owner, absent any CPO. The advice will set out timescales, possible strategies and an overview of how each operator might be engaged and incentivised to work with the Council outside of any statutory process.

The budget for the Carter Jonas work and the outsourced legal work will come from the Housing Revenue Account.

This report seeks in principle support for the making of the CPOs. Further authority will be sought to formally make the CPO(s) once the Statement of Reasons and draft CPO have been prepared.

### Warden Service

The Warden Service commenced October 2020 and given the continued need for this critical service as we decant both buildings, we are proposing to continue with the warden services for a further six months.

The warden service currently consists of eight wardens at Mellish Court and six wardens at The Gables. The resident decant programme, the leaseholders offers, the shared equity offer, and the CPO process are all working towards the full decant of both Mellish Court and The Gables by October 2021. Consideration will be given on a risk basis to reduce the number of wardens and length of the service as the decant programme continues. The number of vulnerable residents in each tower block, as well as other factors will be considered, alongside discussions with Buckinghamshire Fire & Rescue Services, prior to any reduction of resources.

Where resident leaseholders have not accepted a purchase offer, nor the shared equity offer, the Council propose to give notice that it can charge resident leaseholders on a pro-rata basis for the warden patrol service. Resident leaseholders will be notified of the details in due course. However, it is proposed that we waive any leasehold charges for fire related mitigation works such as the replacement of communal doors. We would normally seek to recharge for these works.

## 1. Decisions to be Made

- 1.1 That the shared equity offer, as outlined, be approved and delegated authority be given to the Director - Finance and Resources and the Director - Environment and Property to confirm costs should any leaseholders complete this offer.
- 1.2 That a Compulsory Purchase Order and the development of a Statement of Reasons be approved for submission to the Ministry of Housing, Communities and Local Government by 1 June 2021, obtaining external legal advice for the drafting of the Statement of Reasons and to approve Carter Jonas' activities with a budget of £50,000 and a legal budget of £100,000 as a maximum, should legal proceeding be required.
- 1.3 That delegated authority be given to the Director - Environment and Property, in consultation with the Director - Law and Governance, to take all steps necessary to enable the Compulsory Purchase Order(s) (CPO(s)) to be made, including, but not limited to the:
- (a) carrying out of land referencing including without limitation the service of notices under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and/or section 5A of the Acquisition of Land Act 1981 if required;
  - (b) preparation of a draft Statement of Reasons;
  - (c) preparation of a draft Order and Order Schedule; and
  - (d) preparation of notices to all those identified as required to be served, site notices and any other notices required to be served and/or advertised should a further resolution be obtained authorising the making of the CPO(s).
- 1.4 That the warden patrol service be extended for six months, with delegated authority be given to the Director - Finance and Resources and the Director - Environment and Property for any further short-term extensions.
- 1.5 That the Leaseholders be charged for the warden patrol service on a pro-rata basis as described from 1 June 2021.
- 1.6 That the leaseholder recharges for fire safety works be waived.

## 2. Why is the Decision Needed?

- 2.1 To support the timely decant of leaseholders from Mellish Court and The Gables and to provide our residents with safe housing.

## 3. Implications of the Decision

Financial	Yes	Human rights, equalities, diversity	Yes
Legal	Yes	Policies or Council Plan	No
Communication	No	Procurement	Yes
Energy Efficiency	No	Workforce	No

(a) Financial Implications

The cost of the shared equity offer will be dependent on the number of resident leaseholders that take up the offer, the purchase price of the new property and other factors as summarised in this report. Given the range of costs this may present, it is proposed that approval to confirm costs is delegated to the Director of Finance and Resources and the Director of Environment and Property, should any leaseholders complete this offer, with final costs reported in the Budget Monitoring Update to Cabinet in June 2021. Approval of individual offers will be within the principles agreed for the Shared Equity Offer and within officer scheme of delegation approval levels. These costs will be met from the Council's General Fund as shared equity is accounted for as an investment and is not part of the HRA's landlord function. The cost of investment will become part of our Capital Financing Requirement and as funded through borrowing will require revenue provision to be made for interest and Minimum Revenue Provision ("MRP") for repayment and therefore reduce the availability of funding / borrowing for other schemes.

A budget provision of £0.150m is sought to allow for legal fees associated with the CPO process to be funded from the Housing Revenue Account. Actual costs may be lower if legal proceedings are not required; any variation in expenditure will be reported through budget monitoring process. Further CPO budget provisions will be considered separately.

The proportion of costs that would ordinarily be recharged to leaseholders for their share of works in relation to the fire safety improvements are estimated to be £0.300m (the actual cost may vary dependent on the final cost of the work). It is proposed to waive this charge. The loss of this income will be a cost to the Housing Revenue Account.

The HRA Business Plan Model (our 30-year financial projection of the HRA) will be updated to incorporate the costs outlined in 3.2 and 3.3 as part of our mid-year refresh, which will reduce the headroom available for other investments.

(b) Legal Implications

All the requirements referred to regarding the promotion and making of CPOs in this report and those detailed in the Carter Jonas report as an **Annex**, are necessary when justifying the CPO to the Secretary of State, before the CPO(s) can be confirmed.

#### 4. Timetable for Implementation

Resident consultation (8 weeks):	Complete
Final Decision on future of the blocks:	Complete
Full decant of blocks:	Target by October 2021
Demolition of the blocks:	Target to commence November 2021
New build works:	Target to deliver within 22/23 and 23/24

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#### List of Annexes

**Annex** Report by Carter Jonas

#### List of Background Papers

Future of Mellish Court and The Gables

Delegated Decision - 10 November 2020

[Delegated Decision - 10 November 2020](#)

Delegated Decision - 1 December 2020

[Delegated Decision - 1 December 2020](#)

Delegated Decision - 9 March 2021

[Delegated Decisions - 9 March 2021](#)