

AYLESBURY LEASEHOLDERS ACTION GROUP

REPRESENTATIONS MADE TO SOUTHWARK COUNCIL 2013 – 2017

1 Overview and Scrutiny Committee, 11 Nov 2013, item 10, Minute:

10. IMPACT OF REGENERATION ON LEASEHOLDERS

10.1 Following on from recent experience on the Heygate Estate, a member suggested that it would be worthwhile for the committee to undertake a brief scrutiny of the impact of regeneration on leaseholders. The committee agreed to ask the Director of Regeneration to provide a briefing to its February meeting on this issue and particularly to cover:

- lessons learned from experience on the Heygate estate
- whether levels of compensation offered effectively force leaseholders out of the borough
- clarification on the option to revert to being a secure tenant
- valuation of properties, how these are set, rights of appeal etc
- the extent of carpet bagging (in terms of people exercising right-to-buy on estates due for regeneration)
- the legal requirements on the council when displacing leaseholders and the range of options available
- the point at which leaseholders' statutory rights can be suspended

2 Overview and Scrutiny Committee, 3 Feb 2014, item 4, extract from minutes:

4.9 The committee noted that its next meeting would receive brief presentations from leaseholders

3 Overview and Scrutiny Committee, 10 Mar 2014. item 5, extract from minutes:

5.2 Ms Beverley Robinson, another leaseholder on the Aylesbury estate, agreed that fee-capping should cease and believed that legally no hourly rate could be imposed. Ms Robinson stressed that leaseholders wanted to receive market value for their properties and that council valuations were very low and that often leaseholders were offered different values for similar properties. She asked for more transparency in the process. Ms Robinson stated that leaseholders could not buy an alternative property with what they were being offered and that the assisted schemes currently in place were not clear. In respect of the shared equity option,

she was not clear what would happen if a leaseholder subsequently wanted to sell the property and whether any increase in value could be retained.

5.9 The leaseholders attending the meeting emphasised again that the process needed to be more user friendly and that valuation negotiations needed to be transparent. Professional support should be available. The option of a return to a council property was sometimes necessary. One leaseholder explained that she had recently been made redundant and that the council had required a lot of details from her, including a statement as to why she wanted to continue living with her mother. She also commented that, for many different reasons including age, banks might not be prepared to offer a mortgage on shared ownership. The leaseholders stated again that in their view the means-testing of leaseholders was very intrusive and that the criteria was not clear. Some residents could not afford rent or a mortgage.

5.10 The chair thanked the leaseholders for attending the meeting and sharing their experience with the committee. The committee considered this in conjunction with the officer briefings it had received.

RECOMMENDATIONS:

1. Overview & Scrutiny Committee welcomes the news that the Cabinet is about to consider the report, Shared Equity - An Additional Rehousing Assistance Route for Homeowners Affected by Regeneration. The committee is conscious of the fact that regeneration causes enormous stress and potential upset for many leaseholders and asks Cabinet to look at ways of making sure that options such as shared ownership and shared equity are presented to leaseholders in as accessible and easy to understand a way as possible, so that information is clear and is delivered in an open fashion from first negotiation to moving day.

2. Overview & Scrutiny Committee welcomes the news that two valuation cases are being considered by Upper Tribunal (Lands Chamber) and looks forward to the outcome of this. The committee asks to receive the findings and arguments of the Upper Tribunal and that these are also distributed to the widest appropriate audience.

3. Provided that there is no evidence that any party in the appeals has acted unreasonably, the committee recommends that in these two cases the council not seek for costs to be awarded against the relevant leaseholders.

4. That Cabinet work with the Creation Trust to provide leaseholders with an independent list of surveyors, and review the level of fee cap for surveyors so that the ability of leaseholders to access surveyor advice is not restricted.

5. That Cabinet look at better advertising of the work of Homeowners Council and LAS2000 and of the support for leaseholders administered by the CAB.

4 Cabinet, 21 July 2015, extract from minutes:

Question from Beverley Robinson to Councillor Mark Williams

Noting that "rehousing assistance" for leaseholders facing compulsory loss of home often requires compulsory re-direction of pre-existing savings, what steps are being taken to improve policies and procedures to mitigate the stress and unfairness perceived by leaseholders in regeneration areas, with particular regard to the financial assessment procedures?

Response

Through its rehousing assistance scheme, the council offers a range of rehousing options for leaseholders affected by estate regeneration programmes who are unable to purchase a new property locally on the open market. This process can result in the offer of a new tenancy with the council or with a housing association, or in the option to purchase a new leasehold property through shared ownership or shared equity schemes with the council or with a housing association, depending on the individual leaseholder's personal and financial circumstances. For the regeneration of the Aylesbury Estate, to assist leaseholders, this process is set out within a re-housing guide which is available on the Council's website:

(See: http://www.southwark.gov.uk/downloads/download/1079/aylesbury_homeowners_rehousing_toolkit)

The council's current policy for council shared equity purchases, in which leaseholders do not pay any rent on the proportion of the property that they do not own, is that the purchaser is required to purchase the maximum amount of equity in the new property that they can afford. This currently means that the purchaser will be required to invest any additional savings above £16,000 into purchasing equity within the property. The reason for this is to ensure that the council shared equity scheme remains prioritised towards those who do not have sufficient capital to be able to afford to buy a property in the local area on the open market. The level of retained savings within the council's rehousing assistance programme was set when the policy was approved in 2010 but, in order to ensure that the council's rehousing assistance effectively assists existing leaseholders to move without adverse impact on individuals' personal and financial circumstances, this policy will now be reviewed with a view to a final decision to be made this autumn.

The council also seeks to put in place additional arrangements with each of its development partners on major regeneration schemes to provide further rehousing options for leaseholders. For example, in the case of the regeneration of the Aylesbury Estate, under its development partnership with the council, Notting Hill is offering a

number of new-build shared equity properties to existing resident Aylesbury homeowners on terms tailored to meet the needs and the financial circumstances of individual leaseholders.

Supplemental question

Ms. Robinson asked a supplemental question relating to the review and evidence from leaseholders. Again it was agreed that Councillor Mark Williams would meet with Ms. Robinson and council officers to discuss the matter.

4 Meeting with Cabinet Member for Regeneration and New Homes, and officers, 20 October 2015

For official record see Annexe A hereto

5 Cabinet 20 October 2015

PUBLIC QUESTION TIME (15 MINUTES)

Question from Mr Toby Eckersley to Councillor Mark Williams

With reference to the undertakings given in his answers to the questions, and supplemental questions, put by Beverley Robinson and myself at cabinet on 21 July 2015 with regard to amelioration of compulsory purchase procedures, please would the cabinet member for regeneration and new homes set out what is now proposed to carry out those undertakings?

Response

I met with Toby Eckersley and Ms Robinson this morning. A series of actions were agreed.

Supplemental question

Mr Eckersley asked a supplemental question requesting transparency for any further actions or policy changes.

Question from Beverley Robinson to Councillor Mark Williams

Aylesbury phase 1b/1c CPO. Would the cabinet member for regeneration and new homes confirm that, should the council obtain vacant possession of any building before the government's decision on the CPO is issued, the council will refrain from any action which would prejudice consideration of the alternative put by objectors' counsel, namely refurbishment.

Response

As outlined at the recent CPO Inquiry Notting Hill has already commenced the demolition of vacant blocks on the Aylesbury First Development Site (1b/1c). If further properties become vacant, Notting Hill will start demolishing the buildings. As

stated at the Inquiry, the council consider that the redevelopment option, which secured planning permission in August 2015, is the only deliverable scheme for the site.

Supplemental question

Ms Robinson asked a supplemental question relating to council actions and potential decisions by the Secretary of State.

6 Public question in Cabinet, 17 Nov 2015, from Beverley Robinson:

To Councillor Richard Livingstone, Cabinet Member for Housing

Re the policy on financial assessment of leaseholders facing loss of home through compulsory purchase, please could we be advised of the outcome of the briefing which, at a meeting with Councillor Williams on 20 October, we were told would take place on 9 November between Councillor Livingstone and officers?

Response

The cabinet member for housing was briefed on 16 November 2015 about a number of issues raised by home owners affected by regeneration on the Aylesbury Estate's first development site. Among the main issues discussed was one concerning the level of their own savings home owners are required to apply to their re-housing, and on-going concerns around valuations were also noted. Officers have been directed to liaise with other local authorities undertaking large-scale regeneration schemes and put together further proposals for Cabinet consideration early in the New Year.

Supplemental question

Ms Robinson asked a supplemental question relating to whether the council would consider changing the policy to help leaseholders.

Cabinet requested a report on the financial assessment of leaseholders to come to the cabinet meeting of 8 December 2015.

7 Deputation to Cabinet, 8 Dec 2015

Aylesbury Leaseholders Action Group

The deputation spoke in respect of their written representation set out in paragraph 4 and Appendix 1 of the report. Councillor Mark Williams confirmed that he would respond in writing to the deputation in respect of all the points raised in this representation and would meet with the deputation following receipt of this response, if required.

The written representation was as follows:

Aylesbury Leaseholders Group, Requested Policy Changes for revised Policy (Cabinet 8th Dec 2015)

1. On 26 Sep 2006, the Council's Executive agreed a policy of like-for-like swaps for Aylesbury leaseholders, allowing them to swap their Aylesbury home with another Council home in the borough at no financial cost ([item 15 – para. 52 Comparative Value Transaction](#)). This policy has since been withdrawn and we would like to see it reinstated.

2. On 19 Feb 2009, the Council also agreed a policy of enabling leaseholders of pensionable age to be rehoused as tenants¹. This policy appears not to have been implemented, so we would like to see it laid out clearly as an option available to elderly leaseholders in the revised rehousing policy.

3. The Council has not withdrawn its policy of shared equity for Aylesbury leaseholders, but it has been implemented with restrictive clauses in the small print. For example, leaseholders securing a 69% share in one-bed property in the new-build homes are not entitled to 100% of the capital uplift on their 69% share when they come to sell it, i.e. they won't receive 69% of the market value. Instead they will receive just 69% of the capital uplift on their 69% share². For 2-bed properties there is no capital uplift offered at all, i.e. they will only receive their initial cash stake in the property when sold. This is clearly inequitable and is a major reason for the very small number of leaseholders who have so far taken up the shared equity offer. It is understood that of the circa 250 leaseholders displaced by the scheme to date, less than 10 have taken up the shared equity offer. These restrictive clauses in the small print should be removed.

4. Leaseholders are being made to sign Confidentiality Agreements to stop them talking to each other about the small print and terms/conditions of their rehousing offers³. This must stop. There must be full openness and transparency in all negotiations with leaseholders.

5. The small number of leaseholders who do take up the shared equity offer are also being forced to put private savings they have into the equity of their replacement home and accept the Council's valuation as a pre-condition. Both of these conditions result in impinging the leaseholder's right to refer the matter to the Upper Tribunal (Lands Chamber) for independent determination.

6. The above improvements would help the Council to ensure compliance with Section 39 of the Land Compensation Act 1973.

7. It is a requirement that the Acquiring Authority reimburse all reasonable professional fees. We would like to see it written in policy that the Council will stop attempting to put a cap on fees for surveyors representing leaseholders in negotiations. Many surveyors are put off by this improper attempt.

8. The Council should review its policy on making advance payments of compensation

under Section 52 of the Land Compensation Act 1973, so as to be sure that the underlying purpose of their legislation, namely the provision of resources to enable a homeowner about to lose their home, are available in a timely manner for the purchase of a new home. Para 69 of the ODPM 06/04 encourages making advance compensation payments before taking possession. We would like to see a policy requirement that advance payments are made at least 4 weeks before taking possession. This will provide leaseholders with sufficient time to seek alternative accommodation with the advance payment.

9. We have long been requesting that the Council instruct independent valuers to value our homes, not Council officers. We have already shown ample evidence that this is common and best practice in other boroughs. It will restore confidence in the negotiation process, facilitate swift early settlements and minimise the need for lengthy and distressing compulsory purchase procedures.

1

<http://moderngov.southwark.gov.uk/Data/Major%20Projects%20Board%20%28Executive%20Committee%29/20090219/Agenda/Item%206%20-Rehousing%20Projects%20&8211%20Rehousing%20Assistance%20for%20Leaseholders%20ofPensionable%20Age.pdf>

2 See https://halag.files.wordpress.com/2015/11/londonquadrant_sharedequity.pdf

3 See https://halag.files.wordpress.com/2015/11/confidentiality_agreement.pdf

The Cabinet RESOLVED:

1. That the revised process of financial appraisal to determine the appropriate rehousing support options for individual leaseholders affected by regeneration schemes be noted.

2. That individual applicants should determine the application of their own savings towards their rehousing options be confirmed.

3. That it be ensured that this approach is reflected in the delivery arrangements with development partners for new regeneration schemes, and that representations are made to existing development partners to seek their agreement to adopt the approach for current regeneration schemes.

8 Meeting with Cllr Williams, Cabinet Member, and officers, 12 January 2016. ALAG note of points made and (in red) outcomes:

The below memorandum brings together the points made by ALAG before and during the deputation to cabinet on 8 December 2015. For clarity and up-dating the wording of some of the points has been revised. The substance of the points is unchanged, except that ALAG's request for a review of the policy on "retained savings" is now omitted, since the cabinet introduced on 8 December an improved policy in that regard, for which ALAG is grateful.

1. On 26 Sep 2006, the Council's Executive agreed a policy of like-for-like swaps for Aylesbury leaseholders, allowing them to swap their Aylesbury home with another Council home in the borough at no financial cost (item 15 – para. 52 Comparative Value Transaction). This policy has since been withdrawn and we would like to see it reinstated. Alternatively, or in addition, the council could, in agreement with Notting Hill, earmark a block for retention and refurbishment for sale exclusively or mainly to displaced leaseholders. The valuations for such purchases are likely to be much more acceptable to leaseholders than the prohibitive prices now being offered by L&Q in the new Harvard Gardens development (£620,000-£695,000 for a 2-bed flat - Council letter of 18 Dec 2015 to phase 3 leaseholders) now nearing completion on part of the site of the former Wolverton block, Thurlow St.

MR repeated council opposition to retaining a block for refurbishment for leaseholders, citing heating problems and cost of refurbishment. He admitted no specific professional advice on this possibility. Officers could not say whether the red-brick blocks were connected to the district heating system. re the "like-for-like" or "comparative value" solutions, officers repeated their view that the shared equity/ownership offers were the best they could do.

2. On 19 Feb 2009, the Council also agreed a policy of enabling leaseholders of pensionable age to be rehoused as tenants [note 1]. This policy appears not to have been implemented, so we would like to see it laid out clearly as an option available to elderly leaseholders in the revised rehousing policy.

MD said that this item had been "withdrawn" - TE took this to mean that it had never been put to councillors [note 1 below refers to a meeting of the Major Projects Board of 19 Feb 2009]. TE to research further and get back to officers if appropriate.

3. With regard to provisions in shared equity/shared ownership leases, the Council is requested to ensure that all leases ensure a fair payment to the leaseholder in the event of the leaseholder on-selling his/her share. Preliminary research shows that the L&Q leases for properties in phase 1a did not provide for a fair apportionment, whereas it appears that the Notting Hill leases for Camberwell Fields are better in this respect. The apparent unfairness of the L&Q leases was set out in ALAG's point 3 set out in the deputation agenda item for the 8 December meeting (supplemental agenda no. 1, p5). Generally the cabinet member is requested to ensure that all fresh leases proposed to displaced leaseholders provide for a fair sharing of values at the time of any future sale of shared equity leases, and do not contain delaying or unreasonable pre-emption clauses, nor clauses which empower the lessor to impose unreasonable costs on the lessee. ALAG believes that shared equity and shared ownership offers must be as attractive as possible to those who are losing the freedoms and benefits of 100% home ownership.

TE to research the various leases. NK offered to help. MR agreed that work on all leases was required and, given the difficult and technical language used in the leases, leaseholders should have clear explanations of the key points.

4. Leaseholders are being made to sign Confidentiality Agreements to stop them talking to each other about the small print and terms/conditions of their rehousing offers [note 2]. This must stop. There must be full openness and transparency in all negotiations with leaseholders.

MR and officers accepted that confidentiality should apply only to the personal and financial details of leaseholders. They admitted that final versions of leases as entered into are publicly available documents, through the Land Registry.

5. There must be no further attempts by the council or its partners to impose as a condition of any type of re-housing offer a surrender of the leaseholder's right to apply to the Upper Tribunal for determination of compensation. This point is linked to advance payments (point 8 below).

See note to point 8

6. The above improvements would help the Council to ensure compliance with Section 39 of the Land Compensation Act 1973.

Accepted by the officers, though they repeat their view that S39 applies only when a CPO is confirmed. MD confirmed that the earliest possession could be taken is about 3 months after confirmation of a CPO. TE pulled MW up for talking of "eviction". MW acknowledged the S39 duties.

7. It is a requirement that the Acquiring Authority reimburse all reasonable professional fees. We would like to see it written in policy that the Council will stop attempting to put a cap on fees for surveyors representing leaseholders in negotiations. Many surveyors are put off by this improper attempt.

MD clarified that the "cap" (which he thought was £1500) was the amount up to which the council would reimburse fees without the need for surveyors to prove reasonableness. Above that level fees would be reimbursed on proof that they were reasonable. Various leaseholders expressed the view that, in the many cases of delay and/or intransigence on the part of council valuers, £1500 was seriously insufficient.

8. The Council should review its policy on making advance payments of compensation under Section 52 of the Land Compensation Act 1973, and have regard to paras 56 and 58 of the new Ministerial Circular on compulsory purchase

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/472726/151027_Updated_guidance_for_publication_FINAL2.pdf

notably the guidance in para 57 of the new circular (Oct. 2015), as follows:

"Acquiring authorities should make prompt and adequate advance payments as this can:

- reduce the amount of the interest ultimately payable by the authority on any outstanding compensation; and - help claimants to have sufficient liquidity to be able to make satisfactory arrangements for their relocation. Acquiring authorities are urged to adopt a sympathetic approach and consider making earlier payments where justified to enable claimants to proceed with reinstatement."

The Council should

- (a) exercise its discretion, and not stick strictly to its statutory right to delay the payment for three months after the leaseholder's request, and
- (b) cease its policy of refusing to consider an advance payment request until after the CPO is confirmed.

ALAG believes that a more sensitive approach on the matter of advance payments, and on ensuring no loss of right to go to the Upper Tribunal, would go a long way to removing stress and uncertainty for leaseholders, without any

disadvantage to an acquiring authority which wished genuinely to be fair and reasonable.

MW said that in the last few days he had discussed this aspect with officers. He stressed the council's need to ensure speedy availability of the land on which to carry out this stage of the Aylesbury project. He said that a new offer was being prepared which might meet this need by providing leaseholders with an assurance as to the availability of resources to enable a shared-equity purchase (ie based on the 90% "advance payment") without losing the right to apply for independent adjudication of fair compensation. MW recognised that if such an offer were to be attractive to leaseholders the risk to leaseholders of an adverse costs award against them must be mitigated. MW confirmed that if such an offer could be negotiated it would be available to Phase 1b and 1c leaseholders. TE pointed out that the devil would be in the detail, and that before agreeing to enter into such an arrangement leaseholders would need professional advice..

9. We have long been requesting that the Council instruct outside valuers to value our homes, not Council officers. . We have already shown ample evidence that this is common and best practice in other boroughs. It will restore confidence in the negotiation process, facilitate swift early settlements and minimise the need for lengthy and distressing compulsory purchase procedures. A valuation officer ultimately reporting to a more senior officer with overall responsibility for progressing a regeneration scheme within budget constraints is perceived to be conflicted.

MW said that this was still under review and that officers were continuing their enquiries of other councils.

10 We request that in respect of the Earls Court development Hammersmith and Fulham be asked whether they continue to propose the 10% additional compensation (above the statutory home loss payment). If so, we request that consideration be given to applying this to Southwark regeneration schemes. In this respect account should be taken of proposals by the promoters of Heathrow expansion that an uplift of 25% be applied to those losing home and property (see FT Money 12 Dec 2015, p10).

MW said that he did not favour anything more than the statutory 10% home loss payment, but agreed that NK should enquire about Hammersmith and Fulham's current policy

11 In respect of the council's use of housing associations or other development partners to discharge its rehousing duties (eg under S 39 Land Compensation Act 1973), and carry out the council's policies (see para (3) of the cabinet's decision of 8 Dec 2015), greater transparency should apply; for example the partner should be able to point to clear obligations set out in the development agreement or other agreement with council as acquiring authority. Greater consideration should be given, especially in respect of partner obligations, to the needs of disabled displacees, eg a development partner should ensure that ground floor accommodation is available.

MW appeared to agree, and remarked that variation(s) to the development agreement with NHHT might be required.

12 Greater consideration should be given, especially in respect of partner obligations, to the needs of disabled displacees, eg a development partner should ensure that ground floor accommodation is available.

MW acknowledged this concern, but sheltered behind a view that solutions depended on the circumstances of individual displacees.

13 A search under the "In my Area" tab on the home page of the council's website on 10 Jan 2016 reveals only one occupied property in the Phase 1b/1c CPO area. A search of all the other relevant post codes comes up with "no results found". We know that residents are still living in most of those other post code areas. That Southwark, through its own website, deletes its residents addresses is a serious breach of its duty as public authority and as landlord. We request immediate corrective action. Many leaseholder present stressed the seriousness of this failure on the part of the council and Judi Bos handed over clear and up-to-date evidence of the "disappearance" of her property from the council's website. TE confirmed that he had been present when Beverley Robinson had on 8 Jan 2016 been told over the phone by a council officer that her address could not be found on the council's website. It appeared that MW shared the leaseholders concerns and wanted officers to do something about it.

14 The council should ensure that, in the light of the new policy with regard to savings (cabinet decision of 8 dec 2015), leaseholders understand that the purpose of enquiries the council makes about leaseholders' bank accounts, etc, is only to assess income, and not the amount of leaseholders' savings (see BR e-mail of 9 Jan 2016 to Mark Maginn).

MD believed that Mark Maginn's reply to Beverley had provided the confirmation sought. Time was insufficient for leaseholders to go into this point further.

15 With regard to progressing consideration of these points, an advisory or steering group should be set up to include nominees of the Aylesbury Leaseholders Action Group and other appropriate representative bodies. A strict timeframe for its work should be set and adhered to.

A joint response on all points from Cllr Williams and Cllr Livingstone will be issued by 31 Jan 2016. There was strong resistance to a suggestion by NK that Homeowners Council was an appropriate forum for these and kindred points.

16 In response to an additional point made by Joy Nyack-Binns. about the lack of "level playing" at CPO public inquiries, MW reminded the meeting about the contribution by Creation Trust (which he chairs) to the objectors' professional representation at the phase 1b/1c CPO Inquiry. He stated that the on-going review would address this point further.

For and behalf of Aylesbury Leaseholders Action Group

Notes:

1 <http://moderngov.southwark.gov.uk/Data/Major%20Projects%20Board%20%28Executive%20Committee>

%29/20090219/Agenda/Item%206%20-Rehousing%20Projects%20&8211%20Rehousing%20Assistance%20for
%20Leaseholders%20of Pensionable%20Age.pdf

2 See https://halag.files.wordpress.com/2015/11/confidentiality_agreement.pdf

9 11 Feb 2016: Beverley Robinson chases Cllr Williams for a response:

Cllr Mark Williams just a reminder to yourself and Neil that we raised 15 questions of various rehousing matters as a group at the meeting on 12th January and Mark stated that he will be writing to us by the end of January and we are now 2 weeks in to February and the response to our questions is well overdue. Cllr Williams stated he will report back to all the leaseholders present at that meeting. I would also be grateful if you could send us a copy the minutes of the meeting on 12th January 2016 (it is 1 months tomorrow since we had that meeting) and one of the issues we raised at that meeting was that officers did not responding to us in a timely manner and again this seems to be the case here.

The response, issued on 1 March 2016, is at Annexe B

10 ALAG writes further on 9 March 2016:

Dear Cllrs Williams and Livingstone.

Thank you for your letter of 1 March following our meeting on 12 January, attached. You responded to our 15 points. Below the same numbering is used. The Aylesbury Leaseholders Action Group would further request as follows ("a.a." refers throughout to the the council as "acquiring authority" under the compulsory purchase and compensation legislation):

Point 1

(a) **The withdrawn "comparative value transaction" option.** You describe this as too restrictive. ALAG does not view it as restrictive. If implemented constructively by the a.a., and pro-actively in co-operation with each resident leaseholder, a useful additional option would be available for the achievement of pledge 6 (third bullet) of the Charter of Principles adopted for regeneration schemes by cabinet on 18 Nov 2014, as follows:

"The programme aims to benefit local people and **any tenant or leaseholder wanting to stay in an area where development takes place will be offered options to do so.**"

We request that the withdrawn option is re-instated.

(b) **Block for leasehold occupation.** We understand that modification of the regeneration proposals to provide for retention of a block for ownership/occupation by displaced leaseholders (on a right of first refusal basis) would involve a departure from a number of matters already

agreed. We believe that with goodwill on all sides the necessary changes could be negotiated and would be financeable. We request that cabinet asks officers to further investigate.

Point 3

Fair shared equity/ownership leases. The a.a. states that it will work with Registered Providers and developers. We request information on progress with this, with particular reference to the L&Q development (Harvard Gardens) on the footprint of the former Wolverton block.

Point 4

(a) **Confidentiality.** In cases, such as ours, where the a.a. is a public elected authority, we do not believe that an a.a. should permit development partners to shelter behind commercial confidentiality in such a way as to prevent residents from discussing amongst themselves the details of offers. This point applies with even greater force in cases (again such as this, where GLA financial support is proposed) where public funds or guarantees are involved. We request that Southwark, as a.a., be more robust.

(b) **Information on prices at which leaseholds have been/are being bought back by the a.a.** We do not understand why information has to be provided through "Creation Trust". However, regardless of the appropriate channel, we request a progress report on the production of anonymised data sufficiently informative to provide assurance to leaseholders that the a.a.'s valuers are acting fairly and consistently.

Points 5, 6, 8 and 10

Leaseholders statutory rights/a.a's statutory obligations and discretions (rehousing, advance payment, determination of compensation, enhancement of compensation, etc). These points go to the heart of the appropriate exercise of the a.a.'s powers. In ALAG's view Southwark in our case is relying on a narrow and legalistic interpretation of its duties to the detriment of the rights of displaced leaseholders. Southwark is giving insufficient weight to government interpretation of the law as evidenced in the old circular 06/2004 and in the new circular issued in October 2015. Southwark also needs to heed the Local Government Ombudsman's decision of 15 Jan 2016 on a complaint (ref ID 14019995) brought by a former Heygate Estate leaseholder. As well as citing its fiduciary duty, the a.a. should be aware, among other things, of:

(i) its wide-ranging discretions under Part I Local Government Act 2000;

(ii) the decisions of other a.a.'s to offer

- enhanced compensation (probably Hammersmith and Fulham and certainly Woking Borough Council: see following link:

<http://www.getsurrey.co.uk/news/surrey-news/sheerwater-compensation-package-not-good-10992261>

- capped/subsidised service charges in new leasehold accommodation [see para 119 Inspector's report dated 6 August 2015 (her ref.

APP/NPCU/CPO/N5090/74016) to the Secretary of State on the LB Barnet (West Hendon Regeneration Area) CPO no.1 2014]

ALAG noted that Cllr Williams stated at the 12 January meeting that he had had discussions with officers about a possible new offer on these matters, notably the timing of advance payments. We request that cabinet instructs the cabinet member to pursue those discussions and to report back before the expected date (first week of May 2016) of the Secretary of State's decision on the Aylesbury Estate Phase 1b/1c CPO.

Point 7

Up-front cap on reimbursable surveyor's fees. The a.a appears to persevere with its policy of refusing to deal with the leaseholder's surveyor unless a cap on reimbursable fees is agreed in advance. This is contrary to the requirement that all reasonably-incurred fees are reimbursed, and to RICS guidelines. The a.a.'s current policy offers no flexibility and undermines confidence that the leaseholder will be effectively represented, and therefore enhances the impression that the a.a. is acting beyond powers with a view to bringing undue pressure on leaseholders. ALAG continues its request for a review.

Point 9

Use of outside valuers. ALAG continues its long-standing request that the a.a. appoints outside, rather than in-house valuers, so as to mitigate against the perceived conflict of interest inherent in the line-management responsibilities of council officers .

Point 11

Clarity on role of development partner in assessment processes. A progress report on discussions with Notting Hill Housing Trust is requested

Point 14

Intrusive inquiries.

(i) **Policy and practice** The a.a's response appears to confuse the obligations

of financial institutions, as lenders, with appropriate assessment policies pursuant to the cabinet's decision of 8 Dec 2015 to permit a leaseholder to make his/her own decision as to how much of pre-existing savings to apply to purchase of a new home. In that context we see no good reason in principle for intrusive and wide-ranging inquiries into the quantum of the leaseholder's capital resources. However we recognise

- that the a.a (as long as it maintains its discriminatory policy - see point

14(ii) below) might feel it necessary to make inquiries as to the leaseholder's ability to afford the on-going costs of home-ownership where an outcome of an application for rehousing assistance might be an entitlement to a council tenancy; and, as a separate matter - that inquiries by a lessor into the leaseholder's savings and capital might be appropriate to provide assurance the lessee is capable of completing a proposed purchase.

(ii) Discrimination/Equalities Act

Leaseholders wishing to be rehoused as council tenants are subject to intrusive inquiries into their income and/or savings. Occupiers with other tenures wishing to be rehoused as council tenants are not subject to such inquiries. This is in principle discriminatory. ALAG has yet to hear of any sound reason for this discrimination and believes that it is in breach of anti-discrimination legislation.

ALAG requests further clarification of the a.a's aims, policies, processes and duties in these matters.

Point 15

Home Owner's Council. Please advise whether the HOC agrees that it's remit includes matters such as those referred to above, and if so whether it is willing to devote sufficient time at its meetings to deal with them appropriately.

Creation Trust. ALAG intends to approach Creation Trust with a view to progressing a constructive dialogue, and to ensure that the Trust's role in respect of leaseholders is clear and understood by all concerned. Thank you for your steer in this direction.

Yours sincerely

Beverley Robinson
for ALAG.

**11 Cabinet 15 March 2016: Deputation refused: extract from minutes:
DEPUTATION REQUESTS**

The leader acknowledged receipt of a deputation request from the Aylesbury Leasehold Action Group. As the group were in correspondence with the cabinet member for regeneration and homes on the issues raised, it was advised that this should continue before cabinet considers whether or not to hear their request. The deputation procedure rules provide that when a request has an alternative means of expressing their views through recognised channels that this option should be followed in the first instance.

12 ALAG letter to Cllr Williams 5 April 2016:

Dear Mark,

ALAG was sorry that our deputation was not received by cabinet on 15 March. We followed up your suggestion to contact Charlotte Benstead of Creation Trust, and met with her on 23 March. We hope that this will lead to greater confidence among leaseholders that Creation Trust is fulfilling the relevant part of its business plan (para 12, item 11, cabinet, 8 Feb 2016):

Representing residents on relevant decision-making forums in order that their voice is heard especially in relation to housing and regeneration issues.

However, most of the points we made at our meeting on 12 January, and our e-mail of 9 March (below) relate to the council's policy, and we therefore believe it falls to cabinet members to respond. Additionally, although Creation Trust may be able to perform a useful role, we note that it is now funded entirely by the developer, on the say-so of the council, and, in respect of leaseholder matters, a conflict of interest may be perceived.

We look forward to hearing further from you.

Yours sincerely,

Beverley Robinson,

For and on behalf of ALAG

**13 Cabinet 7 June 2016: Deputation refused: minute of item 7:
DEPUTATION REQUESTS**

The chair acknowledged receipt of a deputation request from the Aylesbury Leasehold Action Group. As the group were in correspondence with council officers on the issues raised, it was advised that this should continue before cabinet considers whether or not to hear their request. The deputation procedure rules provide that when a request has an alternative means of expressing their views through recognised channels that this option should be followed in the first instance.

At item 11 Cabinet resolved as follows:

**AYLESBURY ESTATE REGENERATION PHASE 2
RESOLVED:**

That the new approach to agreeing valuations of property with affected homeowners on the Aylesbury Estate from Phase 2 onwards to include a nonbinding arbitration process, as set out in the report be agreed, if requested by the leaseholder or freeholder.

**14 17 June 2016: Mr Kirby of Aylesbury Team responds to ALAG
deputation submission for Cabinet 15 March 2016.**

see Annexe C to this document

**15 Cabinet 16 Sept 2016
PUBLIC QUESTION TIME (15 MINUTES)
Public Question from Beverley Robinson**

Where leaseholders in regeneration areas are still in lawful occupation what is the council's policy with regard to carrying out its obligations to ensure the continuing provision of vital services to such residents, and what role did the council play in the recent failure of electricity supply to Chiltern?

Response from the Deputy Leader and Cabinet Member for Housing

The council takes its obligations and responsibilities to all of its residents very seriously, including of course to leaseholders in regeneration areas. However, vital services such as gas, water and electricity provision up to our blocks are the responsibility of the various utility companies and when these fail the council works closely with the providers to restore supplies as quickly as possible. If the failure is within the blocks then the council will always work to restore them as a priority. With regard electrical outages that have affected Chiltern House, there have been

recent problems with the UK Power Networks (UKPN) supply arrangements. The most recent outage was due to a fault at the substation at Portland Street/Albany Road and UKPN attended site and rectified the problem later the same day.

The lift was affected by the power outage but this was resolved as soon as electricity was restored.

The council also updated its website and sent texts to any affected residents (whose phone numbers we have).

Supplemental question

Beverley Robinson asked why council officers did not take responsibility for the problems that have occurred. Councillor Stephanie Cryan agreed to respond to the problems raised.

Public Question from Judi Bos

Why have council officers failed to be aware of or failed to implement the cabinet decision

of the 7 June 2016 where it agreed that a non-binding arbitration process be put in place for the Aylesbury Estate?

Response from the Cabinet Member for Regeneration and New Homes

A mediation process, described in the council's cabinet report of 7 June 2016 as "a nonbinding arbitration process", is in place for residential Aylesbury leaseholders from Phase 2 onwards. To date, 156 leaseholder interests in Phases 2-4 have been acquired by agreement; no leaseholders in Phases 2-4 have approached the council to commence a mediation process. The council does not, therefore, hold any further information relating to costs and resourcing of mediation cases at this time.

Under item 12 cabinet resolved as follows:

RESOLVED:

1. That a series of actions as set out in paragraphs 10, 11, 13 and 14 of the substantive report to bring forward the delivery of the Aylesbury regeneration programme be approved, namely:
 - a) The council funding directly the demolition of Plot 18
 - b) The council underwriting design fees on Plot 18 and Phase 2 in order to progress planning applications and
 - c) The council bringing forward funding and delivery of the approved premises facility.
2. That in the light of the recent Secretary of State decision on the compulsory purchase order (CPO) for the first development site, it is also further agreed that:
 - a) The council should proceed with funding the partial demolition of the first development site on land where there are no outstanding third party interests.

The agreement to the scope of the contract and the revised cost to be delegated to the chief executive for approval

b) That it be noted that due to the CPO decision that any additional costs arising from the delay of the demolition of the first development site will need to be identified and will be subject to future approval by cabinet

c) The council should review the development proposals for the first development site to take account of the phased demolition; and

d) The council should make an application to the High Court for the Secretary of State decision to be reviewed.

3. That approval of the final terms of the agreed actions, as set out on paragraphs 10, 11, 13 and 14 of the substantive report be delegated to the director of regeneration.

4. That those remaining leaseholders in phase 1, that are not subject to land valuation tribunals, be allowed to enter non-binding arbitration, subject to legal advice.

16 Overview and Scrutiny Committee, 10 October 2016: minute of item 4: AYLESBURY REGENERATION DELIVERY - CALL IN

The committee debated the call-in, hearing representations from leaseholders and questioning the cabinet member and council officers.

The committee resolved that the decision was not referred back to the cabinet.

VIDEO - AYLESBURY REGENERATION DELIVERY - CALL IN

<https://bambuser.com/v/6489936>

<https://bambuser.com/v/6489946>

<https://bambuser.com/v/64899722>

17 Beverley Robinson contact with Cllr Stephanie Cryan, Cabinet member for Housing Management re deteriorating and dangerous conditions on the Order Land:

various e-mails on and around 1 Dec 2016 not referenced here.

18 18 Jan 2017: ALAG members attend open hearing of council's application for Judicial Review. Mr Justice Collins grants consent, and calls for the parties to "ameliorate the situation of the leaseholders."

19 Cabinet 7 Feb 2017: Public Question from Maurizio Piga

Paragraph 4.2.3.13 of Appendix 7 of the council's regeneration agreement for the Aylesbury estate says: "In order to provide the resident leaseholders residing [in phase 1b/c] with more choice, the developer will assist five resident leaseholders to purchase a street property". Can the leader explain why these haven't been provided?

Response

The offer of Notting Hill assisting resident leaseholders from phase 1b/1c of the Aylesbury regeneration to purchase street properties, is part of a wider package of rehousing assistance that is offered to resident leaseholders through the Council's Development Partnership Agreement (DPA) with Notting Hill Housing. This included the offer for up to 15 resident leaseholders to purchase a new build property on a nearby Notting Hill development at Camberwell Fields under shared equity terms. This was previously offered to all resident leaseholders in Phase 1b/1c and Phase 2 and a total of 5 resident leaseholders from the Aylesbury have been rehoused there under shared equity terms.

Furthermore the DPA states that Notting Hill will be making shared equity terms available to resident leaseholders on a range of other new build developments within the borough as they come forward over the next few years.

The offer on street properties is specific to resident leaseholders in Phase 1b/1c and to date Notting Hill has assisted one resident leaseholder to move to a street property on shared equity terms. Offers to investigate street purchases have been made to other resident leaseholders on phase 1b/1c on an individual basis but these offers have either been declined, or the leaseholders are seeking to secure alternative accommodation through other rehousing routes. The option to explore street purchases for resident.

leaseholders on phase 1b/1c is still available through Notting Hill and the council will facilitate those discussions where appropriate. Mr Piga did not attend the cabinet meeting and did not ask a supplemental question. Cabinet members asked officers to email a copy of the response to Mr Piga.

20 Cabinet 9 May 2017

1. Public Question from Beverley Robinson

Aylesbury item 11

Paragraph 35 - Notting Hill Housing Trust (NHHT's) commits to assist the rehousing of tenants, and tenants are referred to in paragraph 36:

Why is there no mention of leaseholders in these paragraphs?

Response

The paragraph notes the renewed commitments set out within the Delivery Agreement with Notting Hill Housing Trust (NHHT) in relation to delivery dates, rehousing of tenants and other performance indicators. See Appendix 2 of the report.

The pre-existing commitments within the principal Development Partnership Agreement regarding the provision of shared equity homes for leasehold residents continue to apply. They are not repeated within the Delivery Agreement.

2. Public Question from Toby Eckersley

Noting the likely strain on the council's finances (report: paragraphs 37, 38 and 47)

and the council's refurbishment scheme for the high-rise Maydew House (adding five more storeys), why is there not a review of the refurbishment case for all or part of the remaining buildings on the Aylesbury?

Response

The council has previously considered options for the refurbishment of the estate but found them to be unviable or unfeasible and took the decision to redevelop the estate. The council has an existing contractual agreement with a development partner for the redevelopment of the estate. Planning consent for the demolition and redevelopment of the estate has been granted and this position was tested at public inquiry and the planning inspector and secretary of state accepted this position.

The demolition of vacant buildings within the estate has now commenced, in accordance with the report to cabinet of September 2016. The resource implications referenced in this report refer to that previous cabinet decision in relation to the cost of demolition of existing blocks. The report notes that there are no additional resource implications resulting from this report.

Supplemental question

Toby Eckersley asked a supplemental question relating to 'previous consideration' and suggested would it be sensible to give it some reconsideration as the decision was taken by the 2005 meeting of the executive.

3. Public Question from Eltayeb Hassan

Why wasn't I told that the council will only accept applications for assistance in rehousing from homeowners who purchased their property on or before the 27 of September 2005?

And why should we be excluded now since we never knew about this decision until 26 of January 2015?

Response

The council's rehousing policy for the Aylesbury regeneration was agreed by council executive in September 2006, and reaffirmed by cabinet in December 2010. This set that rehousing assistance through the council should be provided to leaseholders who met the following criteria:

- ☐ Had acquired their property either by Right to Buy or on open market prior to 27 September 2005
- ☐ Had submitted an application to commence the process of the Right to Buy prior to 27 September 2005
- ☐ And that the leaseholder must be in actual occupation of the property for at least 1 year prior to the acquisition of the property.

Since September 2005 the council has very widely publicised the regeneration of the Aylesbury estate, and this policy is therefore in place to prevent rehousing assistance from being directed to persons who have intentionally sought. Since the original policy decision the council and Creation Trust have proactively

advertised these criteria through rehousing events held on the Aylesbury and the council has included the criteria in all leaseholder guides produced and distributed to leaseholders since the executive decision in September 2006.

Supplemental question

Eltayeb Hassan advised that in exercising his right to buy it was not his intention to make money but to be able to continue to live in Southwark as a resident and asked a question in respect of housing assistance. Councillor Mark Williams responded by confirming that efforts will continue to be made to seek a solution.

4. Public Question from Victoria Briden

Councillor Mark Williams says in his foreword the aim is that residents should "directly benefit" from the Aylesbury regeneration: what will be offered to resident leaseholders in phases 2 and 3 so as to provide them with a hope of a better situation than that facing leaseholders in phase 1b/1c?

Response

Residents will benefit from significant investment in the delivery of new homes within the area and high quality of built environment, including new parks and public open spaces, as well as into the wide range of new community facilities being delivered, such as at the Amersham site which will include a new library, health facilities, nursery and community space.

In addition to a range of rehousing options to suit individuals' personal circumstances, existing resident leaseholders on the estate have already been offered the opportunity to purchase brand new homes on shared equity terms at a number of new developments in the surrounding area including Albany Place, Camberwell Fields, Harvard Gardens. Resident leaseholders in later phases will also have the opportunity to purchase new homes delivered within the First Development Site on shared equity terms.

Supplemental question

Victoria Briden talked about her frustration with the alternatives/options available and not wanting to enter into shared ownership schemes.

Councillor Mark Williams outlined the assistance in place and that further meetings can be held to discuss rehousing options to seek a solution.

5. Public Question from Agnes Kabuto

Does any surplus generated by the regeneration scheme have any bearing on the remuneration of Notting Hill Housing Trust (NHHT's) directors and/or senior employees, and is the cost of purchasing leasehold interests a factor in calculating the surplus. Is the surplus shared with the council?

Response

The cost of securing vacant possession of the estate, including the cost of purchasing remaining leasehold interests, falls to the council and is met within existing council budget allocations. These costs are not met directly from the scheme and are not therefore a factor in assessing any future development receipts.

The council will benefit from a guaranteed fixed minimum land receipt on the First Development Site. Should additional development receipts be generated from future sales, both parties would benefit from a share of any net surplus that may be generated.

The council cannot comment on NHHT's policy in relation to remuneration for its staff. It should be noted, however, that NHHT's staff costs are not directly funded for out of the scheme.

Public Question from Stephen Dogbatse

Aylesbury item Para 27 states that without considerable amount of investment in Phase 3 (Taplow , Northchurch 1-56, East street and 218 East street has only a five years Life? Is the report on which this assessment is base to expenditure incurred the warm dry safe programmer on phase 3 building? How much was that expenditure.

Response

The council's warm dry safe programme included a package of essential repairs for blocks on the Aylesbury estate. Package 1 of the Aylesbury WDS works included the blocks 1-215 Taplow and 1-78 Northchurch. These works comprised kitchen and bathroom replacement, internal electrical rewiring, improvement of access and fire safety measures, asbestos testing and removal, renewal of roofing and balcony and walkway repairs, overhaul of windows and other general repairs. No works were carried out to 218 East Street as part of this package. The total cost of the works was £2,228,808 excluding fees. These works commenced October 2014 and completed in August 2015 and were intended to allow for an approximate 7-year lifespan.

DEPUTATIONS

Aylesbury residents

The deputation spokesperson for Aylesbury residents addressed the cabinet regarding item 11: Aylesbury Estate Regeneration Programme Delivery.

The deputation raised a number of points relating to property valuations, the date of building on the first development site, improvements paid for by leaseholders and demolition and rebuild costs. Issue relating to refurbishment costs were also raised. Councillor Mark Williams explained that offers were made on the basis of the market value. If dissatisfied leaseholders can appoint a valuer or refer case to Lands Tribunal (which has happened in some cases).

Under item 11 cabinet resolved as follows:

RESOLVED:

1. That a series of actions as set out in the substantive report be approved namely to:

- a) Note significant progress made since September 2016 in taking forward the regeneration of the estate.
 - b) Note that the variations to the detail of the developments on the First Development Site and Plot 18 which are subject to a revised planning application.
 - c) Consult affected residents about bringing forward the start of rehousing programme for Phase 3 and to bring the decision on whether to start the rehousing of this phase to a future cabinet meeting.
 - d) Note the increases in the jobs and apprenticeships targets.
 - e) Agree the basis of the new Delivery Agreement with Notting Hill Housing Trust.
2. That in the light of the recent Secretary of State decision on the Compulsory Purchase Order (CPO) for the First Development Site, it is further agreed that a report be presented to cabinet at the earliest opportunity setting out the process for pursuing an updated CPO for the First Development Site.

21 Beverley Robinson meeting 12 Sept 2017 with Eleanor Kelly, Southwark Chief Executive and Cllr Anood Al-samerai.

A 10-point list of ameliorations was presented. The Chief Executive responded on 26 Sept 2017 as follows: no further follow-up has been received:

Amelioration list – provided at our meeting and the earlier list

There has been earlier correspondence on a number of these issues, notably from Cllr Mark Williams and from Neil Kirby who is the Head of Regeneration South. By way of this updated response I will focus on the issues that were on the list you provided to me, as I think that these represent the key issues relating to the current position. I am happy to look into any other issues you think may not have been adequately responded to previously.

1. The “Like-for-like” offer instituted in 2006 but rescinded in 2010 should be reinstated – i.e. 100% equity in similar property in the locality should be offered with no money passing.

As officers have previously stated the subsequent amendment to the policy in 2014 to include a shared equity option for leaseholders, in effect gives the same option to leaseholders that the Comparative Value Transaction afforded; that of purchasing a replacement property of equivalent value. It may well be the case that the shared equity option needs to be explained more clearly to illustrate how it works when properties are of comparable value. There was no take up of the Comparative Value Transaction between 2006 and 2010, partly because of the low availability of comparable properties and the restrictive nature of the policy.

It may be possible to buy a property within the Council’s stock with a 100% equity purchase depending on the value of the new property. We therefore do not see any need to change existing policy or to bring back a further restrictive policy.

2. If any financial assessment of individuals is necessary, the displacee should be free to decide whether the “home-loss” entitlement is put towards the purchase of a new property.

The Council’s policy on shared equity is that shares are sold from 50%, in 10% tranches with the leaseholder inputting market value and Home loss payments. When we changed the policy regarding having to put savings towards the new home we should have examined the insistence on using Home Loss payments at the same time. We will therefore revisit this policy, with a recommendation that it should be up to the individual whether or not they put their Home Loss payment into the equity purchase calculation.

3. Re reimbursement of surveyors fees:

- a. It should be made clear at the start that all reasonable surveyors fees will be reimbursed;**
- b. The council should cease purporting to exercise an up-front veto on the amount of re-imbursable fees**
- c. Consideration should be given to staged payments to surveyors**

The Council is committed to ensuring that all reasonable surveyors’ fees are paid. The Council asks that all surveyors contact the Council at the start of the negotiation process to agree a fee proposal, which we are clear with them is then paid on completion of the buy back. This is not an ‘up front veto’, it is to avoid surveyors charging an unreasonable fee to the leaseholder. The Council can however be flexible in its approach to payments if requested.

4. The cost should be reimbursed of a professional survey of any replacement leaseholder or freehold property offered by the Council or its development partner.

The Council does cover these costs and has done for other leaseholders buying replacement properties.

5. Offer of compensation for the value of the property being taken should be based on two independent valuations

The Council employs external surveyors to value the property and conduct negotiations on our behalf. The leaseholders are able to be represented by their own surveyor. These two qualified surveyors form their own opinions of value, so in reaching an opinion of value this is often based on two surveyor's independent valuations. Any surveyor employed to act will have a client and will therefore not be independent as they will be acting on the instructions of their client.

The only fully independent arbiter of valuation dispute is the Upper Tribunal (Lands Chamber) so it is appropriate to continue to try to reach an agreed valuation between the Council and the leaseholder's surveyors.

6. Offer of compensation for the value of the property should specify the "blight factor" if any, being applied.

The Council has the market value of the property assessed in the 'No Scheme World'. When arriving at the valuation the surveyors have regard to the principal comparable properties, making adjustments in accordance with guidance provided by the recent Lands Chamber decisions. This is set out in all offer letters.

The Lands Tribunal decisions are publically available documents and links are available on the Creation Trust website, as well as being searchable on Google. The Lands Tribunal decisions relating to the Aylesbury Estate set that all valuations on the Aylesbury should apply blight at a factor of 10%, which is the approach that we follow.

7. If a 'like for like' offer does not meet the displacee's need a loan should be offered enabling 100% purchase of a replacement property, secured on the property and repayable on on-sale or death.

This is how the shared equity scheme operates. As indicated above, it may be

appropriate to set out a clearer explanation of the scheme. The key difference is that, rather than securing a loan against the property, the Council or the Housing Association just retains the percentage share that the leaseholder does not own. This has the benefit to the leaseholder of then not appearing as a loan or a debt held against the leaseholder should they be applying for credit in the future. However, given that the principle is the same we would be happy to look into a specific arrangement on a chosen property, repayable on sale or death as you outlined. If we are advised that this requires a change in policy then I will look into the governance of that decision with a recommendation that we examine this in individual circumstances at the request of the leaseholder.

8. Any advance payment entitlement should be paid well in advance of possession being taken

The statutory basis for an advance payment is that it can only be made once possession of the property has been taken and in advance of the claim for value being settled. The Council has and continues to offer to make a 90% advance payments to leaseholders on possession of their property being taken by the Council, with the final valuation being determined by the Lands Chamber. We can not make advance payments until possession of the property is taken.

We do have examples where payments have been made on exchange of contracts to enable leaseholders to put deposits down on a replacement property they might be purchasing in the private market, with the remainder paid on completion.

9. Greater responsiveness to the needs of disabled leaseholders should be displayed

The Council tries to always be considerate to the particular circumstances of its residents and will seek to offer the most appropriate re-housing route and appropriate replacement properties for the individual circumstances of the leaseholders.

Creation Trust is also available to provide independent advice and guidance to leaseholders as well as providing specific support throughout the re-housing process in consideration of the needs of the family or individual. We are always

willing to learn from our mistakes and of there are specific examples where individuals would wish to discuss their experience we are very willing to listen and learn.

10.The promoters of Heathrow expansion and the HS2 railway have announced an intention to offer an enhanced 'home loss' payment of 25% - their lead should be followed.

The promoters of the Heathrow expansion programme are a private company and therefore not subject to the same rules and regulations that govern Local Authorities. The main intention of the private sector offering the scheme is to avoid blight to property prices and keep the local property market buoyant. Southwark as a public sector organisation cannot, under its fiduciary duty to ensure the proper use of public funds, make such an offer.

On HS2, the government's website states they will offer properties affected by HS2 market value plus 10% if you are a residential owner of the property – the same offer made to Aylesbury resident leaseholders.

Regards

Eleanor

Eleanor Kelly
Chief Executive
Southwark Council

Notes of meeting

20 October 2015 – Room 418, Tooley Street offices

Present:

Cllr Mark Williams, Cabinet Member for Regeneration (CMW)
 Matt Derry (MD)
 Neil Kirby (NK)
 Beverley Robinson (BR)
 Toby Eckersley (TE)
 Mark Maginn (MM) (Notes)

NB: Actions in bold

1.	Introductions
1.1.	Attendees introduced themselves
1.2.	TE stated that the main purpose of the meeting was to look at mitigating the pain of rehousing and related issues for home owners. CMW agreed that the council needs to assist home owners as much as possible through this process.
2.	Financial Assessment and the £16k disregard issue
2.1.	<p>CMW started by explaining that MM had been asked to compose a briefing paper for Cllr Richard Livingstone (CRL) on this issue. Paper to be presented on 9th November. MM advised that this briefing would incorporate more than just the 16K issue and CMW advised that this may then be used to inform a future policy direction.</p> <p>CMW stated that the council would seek to use any flexibility at its disposal to assist BR and other home owners, although actual policy changes would take longer and be relevant only to future phases. The outcome of the CPO could also direct future policy decision making. TE sought expedience with regard to decisions on the £16k disregard issue as this had been tabled some months earlier, in July.</p>

2.2.	BR is very concerned about losing access to all or a large proportion of the savings she has built up, by having to invest these in her rehousing. BR advised that her savings are depleting month by month. MM highlighted that the requirement to invest savings above £16k applied only to council shared equity option which was just one of the possible outcomes of the council re-housing assistance process.
2.3.	BR explained that the NHHT offer has now expired. NK stated that the option was still open to her and would ask NHHT to be re-issued it, but that NHHT could not keep the property that had been reserved indefinitely. BR was asked to respond formally to NHHT's offer once re-issued.
2.4.	CMW urged BR to continue to liaise with both NHHT and with the council's rehousing assessment team. At the end of the meeting MM reminded BR that there is a two person team at the home owner's disposal between 10am and 4pm at the Taplow Housing office
3.	Lands Tribunal and 90% advance payments
3.1.	TE and BR raised the issue of it being unfair that rehousing should be contingent on home owners accepting what they consider to be undervalue for their homes. TE described what he believed to be a statutory right in this regard. TE also stated that the case of another homeowner set a precedent going forward. MM stated that he did not agree that this set a precedent and that each home owner's circumstance is different. The specifics of the home owner in questions' circumstances could not be discussed in detail. CMW stated that the council does not wish to evict anyone pursuant to the CPO should it be confirmed and we would continue to seek negotiated settlements, using the CPO only as a last resort.
3.2.	MM, CMW and NK pointed out the reasons the council could not as a rule settle rehousing on the basis of 90% compensation. As was stated at the Inquiry, the council could inadvertently make an inappropriate offer of housing. BR stated that her surveyor's assessment of value was significantly more than the council's.
3.3.	BR stated that she thinks home owners are bullied to accept values and rehousing outcomes they do not agree with. BR wished to know what the "upper limit" would be that would preclude someone qualifying for council rehousing. MM stated that there is no upper limit as such and that we could only determine a rehousing recommendation subject to a full appraisal of financial circumstances. MM reiterated that BR should

	complete the forms given to her and work with Melanie Hill. BR stated that she had lost confidence with the council. CMW urged BR to give the Council the chance to assist by engaging with officers.
3.4.	BR raised the issue that the flats being offered by NHHT were at the back of the development and not as well sited as her current flat. It was explained that the flats being offered were determined by the specific design and tenure mix of each individual scheme available at the time.
3.5.	On the question of whether the council would agree to there being two independent values, as raised at Inquiry, it was clarified that the previous references to this were setting out leaseholders' requests but this was never agreed by the council. It remains the Council's position that it will instruct its own surveyor and pay for the reasonable costs of a surveyor to act on behalf of the leaseholder.
3.6.	The council is collating information to present general location details (not specific addresses) of where home owners have moved to in cases where the move has been facilitated through the rehousing assistance scheme.
4.	Site 7 – former Wolverton site
4.1.	MD explained that the L&Q properties were not yet ready, but would be from around Feb time. There is a contractual mechanism for a small number of these to be reserved for Aylesbury residents but that financial arrangements were yet to be agreed. MD stated that marketing of these properties will start soon and residents will be informed. It was made clear that as L&Q is not the development partner, the offer is likely to be less flexible.
4.2.	The timescales for provision of the CPO Inspectors report were conjectured. It was generally thought that this would take at least 4 months. TE stated that the council reviewing its rehousing policies was appropriate irrespective of the CPO outcome. MM agreed and reiterated that the scope of his briefing will encompass more than just the £16k disregard issue.
5.	Works on site and security
5.1.	BR stated that there seems to be much more going on than just soft-stripping works. She was concerned about holes drilled under 21 Chartridge. BR stated that the extent of the works has not been communicated to residents. It was confirmed that in addition to the soft-

	<p>strip demolition, site surveys in the form of trial holes were being undertaken. Details of these were communicated to residents through the Housing team. Complaints about these works were referred to the Housing office.</p> <p>BR expressed concern over asbestos removal and resident H&S. It was highlighted that this work was being undertaken by sub-contractors specialist in asbestos removal.</p> <p>CMW agreed that all residents would be written to about the nature of the works and they residents could contact him directly with any concerns.</p>
5.2.	<p>TE raised the issue of site assembly works possibly prejudicing the SoS decision over the CPO and that the SOS should be free to make a determination between the two options put forward – i.e. Refurb-Redevelop.</p> <p>The Council reiterated that the AAAP process had looked at refurbishment and had concluded in a plan for the redevelopment of the estate, which was examined and endorsed by the SoS's Inspector. This sets the planning policy framework for redevelopment of the estate. Planning consent has now been granted for demolition and redevelopment. The SoS's decision will not address the refurbishment option but relates to matters of compulsory land acquisition to facilitate the consented development.</p> <p>The council will proceed with the demolition of buildings within the site as they become vacant.</p>
5.3.	<p>The RSO, Tunde has visited the property that was broken into. The council is looking at better lighting.</p>
6.	Postal issues
6.1.	<p>NK advised that Jackie Fearon is still looking into this matter. BR asked that officers provide an update in the next 2 weeks</p>

DOCUMENT BR5, ANNEXES
B AND C

ANNEX B

Our Ref: MW-488/JSU
1st March 2016

Aylesbury Leaseholder Action
Group
BY EMAIL



Councillor Mark Williams
Cabinet Member for Regeneration and
New Homes
Labour Member for Brunswick
Park Ward and
Councillor Richard Livingstone
Cabinet Member for Housing
Labour Member for Livesey Ward
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Dear Aylesbury Leaseholder Action Group,

Thank-you for your recent deputation to Cabinet on 8 December 2015, and the constructive meeting that we held on 12 January 2016. This letter brings together the points made by the Aylesbury Leaseholder Action Group (ALAG) before, during and following both the deputation to Cabinet and our subsequent meeting, and responds to each point accordingly.

1. On 26 Sep 2006, the Council's Executive agreed a policy of like-for-like swaps for Aylesbury leaseholders, allowing them to swap their Aylesbury home with another Council home in the borough at no financial cost (item 15 — para. 52 Comparative Value Transaction). This policy has since been withdrawn and we would like to see it reinstated. Alternatively, or in addition, the council could, in agreement with Notting Hill, earmark a block for retention and refurbishment for sale exclusively or mainly to displaced leaseholders. The valuations for such purchases are likely to be much more acceptable to leaseholders than the prohibitive prices now being offered by L&Q in the new Harvard Gardens development (£620,000-£695,000 for a 2-bed flat Council letter of 18 Dec 2015 to phase 3 leaseholders) now nearing completion on part of the site of the former Wolvenon block, Thur/ow St.

The Comparative Value Transaction provision in the 2006 policy was altered in 2010 because it was considered to be too restrictive. The restrictive elements included the fact that home owners had to be able to demonstrate that they had investigated the options of buying on the open market and buying on shared ownership terms through a Registered Provider before the council would consider them for this option. In addition to this, the alternative property was to be chosen by the council. This combined with the fact that the two properties had to be of

equivalent value again greatly restricted choice particularly when compared to what is now on offer through choice based lettings.

Those home owners that qualify for council re-housing assistance are now able to (a) choose from a wider selection of properties through homesearch and (b) as a result potentially buy a property of lower or equivalent value, or purchase a more expensive property on shared ownership or shared equity terms if they would prefer. Purchasing a replacement property of equivalent value therefore remains an option for home owners affected by regeneration but is now one of several available choices.

The Aylesbury Area Action Plan (AAAP) set the planning framework for the area and resolved decisively that redevelopment of the estate was the preferred option. The outline planning application for the masterplan area and the detailed application concerning the first development site, in line with the policy set out in the AAAP, were approved on the basis of redevelopment rather than refurbishment. Furthermore the refurbishment of any blocks on the estate is not a viable alternative for the council or Notting Hill to consider. As has been set out previously the cost of refurbishment was not a funded option. It should also be highlighted that if this approach had been taken existing leaseholders would have been subject to significant Section 20 charges under the terms of their lease.

2. On 19 Feb 2009, the Council also agreed a policy of enabling leaseholders of pensionable age to be rehoused as tenants [note 1]. This policy appears not to have been implemented, so we would like to see it laid out clearly as an option available to elderly leaseholders in the revised rehousing policy.

This policy was not adopted, and the link provided clearly shows that the report was withdrawn on or before the 19 February 2009. (<http://moderngov.southwark.gov.uk/ceListDocuments.aspx?MeetingId=1253&DF=19%2f02%2f2009>). The council's constitutional team has located the minutes for the meeting and these are attached for your information. Again, the minutes themselves give no indication as to why the report was withdrawn.

Clearly, the council would have to consider the potential impacts of such a policy decision on all housing register applicants on the estate and borough wide. From officer experience it would, after seven intervening years' experience of undertaking re-housing assessments, be incorrect to assume that older residents either do not have the desire or the means to continue to enjoy property ownership simply because of their age.

Through an application for council rehousing, one of the outcomes available to all leaseholders, not just those of pensionable age, is to become a council tenant if the applicant has low equity and low income. In fact to date, 6 Aylesbury leaseholders who have applied for council rehousing assistance have taken up a council tenancy as part of this process and 3 have taken up an affordable shared ownership, shared equity or full ownership option.

3. With regard to provisions in shared equity/shared ownership leases the Council is requested to ensure that all leases ensure a fair payment to the leaseholder in the event of the leaseholder on-selling his/her share. Preliminary research shows that the L&Q leases for properties in phase 1a did not provide for a fair apportionment, whereas it appears that the Notting Hill leases for Camberwell Fields are better in this respect. The apparent unfairness of the L&Q leases was set out in ALAG's point 3 set out in the deputation agenda item for the 8 December meeting (supplemental agenda no. 1, p5).

Generally the cabinet member is requested to ensure that all fresh leases proposed to displaced leaseholders provide for a fair sharing of values at the time of any future sale of shared equity leases, and do not contain delaying or unreasonable preemption clauses, nor clauses which empower the lessor to impose unreasonable costs on the lessee.

ALAG believes that shared equity and shared ownership offers must be as attractive as possible to those who are losing the freedoms and benefits of 100% home ownership.

The council's shared equity lease does not operate with the financial restrictions described and homeowners will benefit from any uplift in the value of their share in the same way they would have done had they bought outright.

The council's shared ownership and shared equity leases also contain standard clauses relating to this type of tenure, some of which are required by statute. These include the right of pre-emption, mortgagee protection clauses, staircasing provisions, surrender provisions and restrictions on sub-letting. .

As is stated in the Cabinet policy decision dated 18th March 2014, the council introduced the shared equity offer to address the perceived inequity with shared ownership. Fundamentally however, the benefit of the shared equity offer is restricted to the original displacee(s) and not any future purchaser or inheritor. .

Under the Notting Hill shared equity product, the leaseholder would benefit 100% of any uplift in value at the point of sale.

The council will continue to identify shared equity opportunities in the local area and where possible will work with Registered Providers and developers to ensure that these opportunities are able to be realised. As part of those discussions, the council will make representation that leaseholders will fully benefit from any uplift in value of their share as they would do should they purchase a council property under shared ownership or shared equity terms.

4. Leaseholders are being made to sign Confidentiality Agreements to stop them talking to each other about the small print and terms/conditions of their rehousing offers [note 2]. This must stop. There must be full openness and transparency in all negotiations with leaseholders.

- LBS to clarify timescales of confidentiality agreements.
- LBS to clarify whether new non-council leases can be made public.
- LBS to clarify whether values for completed buy-backs are a matter of public record / available via land registry / values can be released.

Where the council makes an offer of re-housing to a home owner, it is not a requirement of that offer that the terms remain confidential. Council officers present the assessment outcome in person and recommend that home owners seek whatever personal and professional advice they believe to be appropriate. The council is well aware that home owners often share this information among themselves and has no issue with this whatsoever.

Where contracts are entered into in conjunction with Registered Providers (RPs) or other developers, bespoke negotiated positions will be reached on commercial points with each individual leaseholder who is purchasing a property from them. As these are commercially sensitive to the RP or the developer, especially where they are linked to financial provisions in any commercial agreements, it is for the RP or the developer to determine if the individual purchasing a property will be asked to sign a confidentiality agreement. These agreements are made between the RP or developer and the individual leaseholder and the council does not have role nor is it party to the terms of the agreement.

For any non-council leases between RPs and a leaseholder where the council has a role (e.g. shared equity purchases), the council will make representations to the RP that the information contained within the leases to be entered into is made available- in advance.

Where the council has bought back a property from a leaseholder, the value that has been paid for the property is not then available through the Land Registry, in the way that a typical property purchase would be, because the lease itself does not subsist but is instead immediately extinguished. Under the Data Protection Act, the council is unable to detail what specific properties were sold for, but we will in the future look to pro-actively release anonymised data on values. The council will work with Creation Trust to ensure that this information is made publically available.

5. There must be no further attempts by the council or its partners to impose as a condition of any type of re-housing offer a surrender of the leaseholder's right to apply to the Upper Tribunal for determination of compensation. This point is linked to advance payments (point 8 below).

This matter was raised by objectors and addressed by the council at the public inquiry. The council's position is that we expect home owners to have reached an agreement over the value of their home and the value of the property they are purchasing from the council if taking up the re-housing offer of on-going ownership. If the value is to be decided at some unspecified future date then this could result in the original re-housing decision not having been the correct one.

As was detailed at the public inquiry and noted here under points (6) and (8), the rehousing duty under section 39 does not arise at this stage and the offer of rehousing is discretionary and based on the council's own policies.

As evidenced through the consideration and adoption of changes to policy affecting homeowners affected by regeneration, the council has progressively refined its assessment criteria for the qualification and rehousing options available to those applying for rehousing assistance since the scheme first became available to Heygate homeowners. We will continue to do so through regularly reviewing impacts and outcomes, including the concerns and feedback from homeowners who have undergone or who are undergoing the process.

6. The above improvements would help the Council to ensure compliance with

Section 39 of the Land Compensation Act 1973.

The duty to rehouse applies post confirmation of a Compulsory Purchase Order (CPO), once it has been implemented by the notice to treat/notice to enter or General Vesting Declaration (GVD) procedure — and possession is taken. All negotiations and offers by the council and its partners are in advance of confirmation of a CPO and therefore are intended to avoid the section 39 duty even arising (by acquiring properties by agreement).

7. It is a requirement that the Acquiring Authority reimburse all reasonable professional fees. We would like to see it written in policy that the Council will stop attempting to put a cap on fees for surveyors representing leaseholders in negotiations. Many surveyors are put off by this improper attempt.

The council will pay leaseholders' reasonable professional fees in selling their properties back to the council.

Unfortunately, on occasion, some firms seek to make commercial gain of the process by charging residents unreasonable and excessive fees because they consider that these will then be recovered from the council.

In the case of surveyor's fees, the assessment of the market value of Aylesbury dwellings and associated compensation matters is not considered a complex matter, and it is the council's practice to agree a capped fee with surveyors in such circumstances. This is in keeping with the RICS Guidance and is consistent with case law. In February 2014 the council's Overview and Scrutiny Committee reviewed the matter of payment of fees in compulsory purchase

cases and concluded that the approached adopted, i.e. for fixed reasonable fees was acceptable and prudent.

In relation to legal fees, the council sets a threshold figure for what it considers to be a reasonable level of legal fees for a straightforward leasehold purchase; any fees below the threshold are automatically deemed to be considered reasonable and are paid. Where legal fees come in above the threshold, they will be assessed on an individual case-by-case basis as to whether they are considered to be reasonable in the circumstances; factors considered include the complexity and time involved in an individual purchase.

The council does have flexibility in paying professional fees, particularly where there are special circumstances or a matter becomes unduly complicated or protracted, and ultimately the council will exercise its discretion in determining what is considered reasonable in the circumstances. In doing so, we must consider the wider impact of increased costs and how they are met. Such costs are borne by the income that the council receives from council tenancy rents and by effectively managing these costs, there are consequential impacts boroughwide.

8. The Council should review its policy on making advance payments of compensation under Section 52 of the Land Compensation Act 1973, and have regard to paras 56 and 58 of the new Ministerial Circular on compulsory purchase https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/472726/151027_Updated_guidance_for_publication_FINAL2.pdf notably the guidance in para 57 of the new circular (Oct. 2015), as follows:

"Acquiring authorities should make prompt and adequate advance payments as this can:

- reduce the amount of the interest ultimately payable by the authority on any outstanding compensation; and
- help claimants to have sufficient liquidity to be able to make satisfactory arrangements for their relocation.

Acquiring authorities are urged to adopt a sympathetic approach and consider making earlier payments where justified to enable claimants to proceed with reinstatement. "

The Council should:

- (a) exercise its discretion, and not stick strictly to its statutory right to delay the payment for three months after the leaseholder's request, and
- (b) cease its policy of refusing to consider an advance payment request until after the CPO is confirmed.

ALAG believes that a more sensitive approach on the matter of advance payments, and on ensuring no loss of right to go to the Upper Tribunal, would go a long way to removing stress and uncertainty for leaseholders, without any disadvantage to an acquiring authority which wished genuinely to be fair and reasonable.

Section 52 of the Land Compensation Act 1973 sets out arrangements for the advance payment of compensation to a homeowner where the council has taken possession of a property following a Compulsory Purchase Order (CPO). The purpose of this is to ensure that dispossessed homeowners are able to receive the majority of the compensation to which they are entitled on or soon after the council taking possession of their property, even though the final amount of compensation payable remains unresolved. This is required because it can take some time after possession of the property has been taken for the final level of compensation to be resolved, in some cases requiring determination by the courts.

Upon receiving a valid request for advance payment following confirmation of a CPO, the council is required to make a payment of 90% of its assessed value of the property on the date it takes possession of the property or 3 months from the request whichever is later. This is termed an "advance payment" as it is made in advance of resolving the final amount of

compensation to which the homeowner is entitled; it is not a payment made in advance of the council taking possession of the property, and the council is not required to release any payment in until it has taken legal possession of the property.

The council works very hard to negotiate with homeowners to purchase their properties by agreement and to avoid having to exercise its compulsory purchase powers, and with success: Taking possession without the owner's agreement affects only a very small minority of owners affected by regeneration schemes. Where the council does have to implement its compulsory purchase powers it seeks to do this in line with its statutory duties and relevant guidance.

9. We have long been requesting that the Council instruct outside valuers to value our homes, not Council officers. We have already shown ample evidence that this is common and best practice in other boroughs. It will restore confidence in the negotiation process, facilitate swift early settlements and minimise the need for lengthy and distressing compulsory purchase procedures. A valuation officer ultimately reporting to a more senior officer with overall responsibility for progressing a regeneration scheme within budget constraints is perceived to be conflicted.

- LBS to clarify whether off-site values can be used as comparable evidence in valuations

The council employs RICS Registered Valuers, and follows the valuation guidelines laid down in the RICS 'Red Book'. All valuations are signed off by qualified practicing registered valuers.

Leaseholders under the legislation are entitled to be represented by a qualified valuer and for their reasonable fees to be reimbursed by the council. Both valuers are therefore subject to the same rules and guidance on how to value the property. In the event that both parties are unable to settle then either party may seek to take the case to the Upper Tribunal (Lands Chamber) for determination.

Employing another firm of valuers would not provide an independent service as they would be acting for the council as instructing client. It is only the Upper Tribunal (Lands Chamber) which acts as an independent arbitrator. Almost all of the properties that the council has acquired to date on the Aylesbury (over 230), have been acquired by agreement and without the need for independent arbitration. Only 2 leaseholders (less than 1% of the properties acquired) have disputed the council's valuation at the Upper Tribunal (Lands Chamber).

However, in accordance with the council's philosophy of constant review and improvement and as referred to under our response to point 5, alternatives to the current arrangement will be considered when approval from full Cabinet for the next tranche of repurchases is sought.

With regard to off-site comparables, I point you to the decision of the Upper Tribunal (Lands Chamber). in two recent cases on the Aylesbury, which considered that off-site properties were not comparable to properties on the estate and therefore no weight could be considered to them during the valuation of the estate property. The Tribunal is the ultimate body for determining questions of valuation and its decision is final: I encourage you to read the decision in each case, they can be found at the Tribunal's webpage: <http://www.landtribunal.gov.uk/Aspx/Default.aspx> under file number references ACQ 82 2013 and ACQ 100 2013. All offers that the council makes are and will be in accordance with the methodology and rationale set out in these Tribunal decisions.

10. We request that in respect of the Earls Court development Hammersmith and Fulham be asked whether they continue to propose the 10% additional compensation (above the statutory home loss payment). If so, we request that consideration be given to applying this to Southwark regeneration schemes. In this respect account should be taken of proposals by the promoters of Heathrow expansion that an uplift of 25% be applied to those losing home and property (see FT Money 12 Dec 2015, p10).

The London Borough of Hammersmith and Fulham currently pay leaseholders the market value for their property and statutory home loss payments. It is understood that officers from Hammersmith and Fulham are currently in discussions with the developer of the Earls Court regeneration programme over the financial arrangements in relation to that scheme and it is currently too early to confirm what the offer for leaseholders on the site, beyond the statutory minimum, might be following any renegotiation of terms with the developer.

The promoters of the Heathrow expansion programme are a private company and therefore not subject to the same rules and regulations that govern Local Authorities. The private owners of Heathrow as part of their pitch to win support for the building of an additional runway have offered to pay homeowners 25% above market value compensation plus legal fees and stamp duty costs on homes that would otherwise be compulsorily purchased and/or are in close proximity to the new airport boundary whose homes do not need to be compulsorily purchased. As set out above the offer above market value is made by a private company and the main intention of offering the scheme is to avoid blight to property prices and keep the local property market buoyant. Southwark as a public sector organisation could not under its fiduciary duty to ensure the proper use of public funds, make an offer above market value. The market conditions in central London also do not necessitate any artificial inflation of property prices to keep the property market buoyant

11. In respect of the council's use of housing associations or other development partners to discharge its rehousing duties (eg under S 39 Land Compensation Act 1973), and carry out the council's policies (see para (3) of the cabinet's decision of 8 Dec 2015), greater transparency should apply; for example the partner should be able to point to clear obligations set out in the development agreement or other agreement with council as acquiring authority.

- LBS to clarify Notting Hill position on adoptions LBS approach re savings policy change.

Please note the answer to question 6 which covers S39 of the Land Compensation Act 1973.

As you are aware the council no longer take savings into account in assessing affordability and eligibility for re-housing, although home owners are able to use their savings to purchase a replacement property should they wish to. Notting Hill has noted the council's recent change in policy and discussions over whether Notting Hill adopts a similar policy are ongoing. The current position is that, where savings are held, Notting Hill and the purchaser negotiate the level of savings that will be used to purchase the new property.

- 12 Greater consideration should be given, especially in respect of partner obligations, to the needs of disabled displacees, eg a development partner should ensure that ground floor accommodation is available.

With regard to council assisted re-housing, a housing needs assessment is undertaken alongside the financial assessment in order to determine the appropriate type of accommodation that can be accessed.

Housing association new build developments contain a mix of accommodation and tenure types, but what can be offered differs from development to development and is dependent on the timing of construction, availability and affordability. In addition, the type and tenure of housing on each development is restricted to that which is set out within the planning consent and the S106 agreement in place. The council and its partner strive to ensure there are suitable replacement homes for all residents across the borough.

Whether applying for council rehousing or purchasing through a developer, the onus is on the individual to come forward and raise any potential needs they have at the outset of the process so that this can be considered as part of any assessment of suitability for a property purchase.

13. A search under the "In my Area" tab on the home page of the council's website on 10 Jan 2016 reveals only one occupied property in the Phase 1b/1c CPO area. A search of all the other relevant post codes comes up with "no results found". We know that residents are still living in most of those other post code areas. That Southwark, through its own website, deletes its residents addresses is a serious breach of its duty as public authority and as landlord. We request immediate corrective action.

This matter has been investigated and IT issues in relation the council's online database of properties have been identified which have meant that certain properties within Phase 1b/ 1c have not appeared on the system. The error has now been rectified and we would like to thank you for bringing it to our attention and apologise for any inconvenience it may have caused residents.

14. The council should ensure that, in the light of the new policy with regard to savings (cabinet decision of 8 Dec 2015), leaseholders understand that the purpose of enquiries the council makes about leaseholders' bank accounts, etc, is only to assess income, and not the amount of leaseholders' savings.

Whilst council officers no longer take savings into account in assessing affordability and eligibility for re-housing, home owners are able to use their savings should they wish to. As part of our fiduciary obligations we are required to undertake data matching for the detection and prevention of fraud it is a requirement that applicants declare all sources of income and expenditure as well as any savings they may have. We would also need to be aware of savings levels where home owners elect to utilise these to buy a larger share in a property or buy a property of higher value which they would not otherwise be able to purchase without these savings.

15. With regard to progressing consideration of these points, an advisory or steering group should be set up to include nominees of the Aylesbury Leaseholders Action Group and other appropriate representative bodies. A strict timeframe for its work should be set and adhered to.

Home Owner's Council (HOC) is a constituted group representing home owners across the borough through links with local area forums. I trust the HOC would welcome representatives from the Aylesbury Leaseholder Action Group and I would recommend that you make contact with the group via the Aylesbury Area Forum or by contacting the council's Resident Involvement Team. Details below:

http://www.southwark.gov.uk/info/10092/council_home_owner_services/1528/homeowners_council

In addition, the council is in the process Of setting up a new independent homeowners

agency, to be known as My Southwark Homeowners, which will be overseen by an independent board. It is expected that the board will take a keen interest in regeneration matters affecting leaseholders and will wish to contribute to the debate and solutions. It is likely that the board will be set up later on this summer.

More locally, Creation Trust also has a key role in the on-going dialogue between the council and all residents on the Aylesbury as the regeneration plans are brought forward. There is leaseholder representation on the Creation Trust board and the Trust would be more than happy to engage in a dialogue with the Aylesbury Leaseholder Action Group over its points raised.

We look forward to engaging with the Aylesbury Leaseholder Action Group through

one of these forums in the future.

Yours Sincerely, .

A handwritten signature in black ink, appearing to read 'Mark Williams', with a long horizontal flourish extending to the right.

Councillor Mark Williams
Cabinet Member for
Regeneration and New Homes

A handwritten signature in black ink, appearing to read 'R Livingstone', with a large, stylized circular flourish at the end.

Councillor Richard
Livingstone
Cabinet Member for Housing .

BR5 - ANNEX C

Aylesbury Leaseholder Action Group BY EMAIL



Neil Kirby
Head of Regeneration South Chief Executive's Department . Regeneration South
aylesburyteam@southwark.gov.uk
Tel: 0207 525 4817
Date: 17 June 2016

Dear Aylesbury Leaseholder Action Group

Thank-you for your recent correspondence and the questions raised in your email dated 15 March 2016. This letter responds to the points made in turn in that email.

Point 1

- (a) The withdrawn "comparative value transaction" option. You describe this as too restrictive. ALAG does not view it as restrictive. If implemented constructively by the a. a, and pro-actively in co-operation with each resident leaseholder, a useful additional option would be available for the achievement of pledge 6 (third bullet) of the Chatter of Principles adopted for regeneration schemes by cabinet on 18 Nov 2014, as follows: "The programme aims to benefit local people and any tenant or leaseholder wanting to stay in an area where development takes place will be offered options to do so. " We request that the withdrawn option is re-instated.
- (b) Block for leasehold occupation. We understand that modification of the regeneration proposals to provide for retention of a block for ownership/occupation by displaced leaseholders (on a right of first refusal basis) would involve a departure from a number of matters already agreed. We believe that with goodwill on all sides the necessary changes could be negotiated and would be financeable. We request that cabinet asks officers to further investigate.

In the Council's letter dated 1 March 2016, we set in detail why the rehousing policy was amended in 2010 to remove the Comparative Value Transaction.

The subsequent amendment to the policy in 2014 to include a shared equity option for leaseholders, in effect gives the same option to leaseholders that the Comparative Value Transaction afforded; that of purchasing a replacement property of equivalent value. The

Council therefore considers there is no merit in policy change to reinstate the Comparative Value Transaction and has no plans to do so in the future.

As set out in our letter dated 1 March 2016, the Council and Notting Hill Housing Trust have a masterplan for the Aylesbury estate and we will continue to work in partnership to deliver that plan. The masterplan now has outline planning consent and is in accordance with the Aylesbury Area Action Plan that went through an examination in public before being agreed with cross party support at Council Assembly. It does not include refurbishment of existing blocks and in any event refurbishment to any of the blocks in the masterplan area is not viable.

Point 3

Fair shared equity/ownership leases. The a-a. states that it will work with Registered Providers and developers. We request information on progress with this, with particular reference to the L&Q development (Harvard Gardens) on the footprint of the former Wolverton block

Discussions with Registered Providers (RPs) are on-going on a scheme by scheme basis. This includes a discussion with L&Q over leases for shared equity purchases at Harvard Gardens.

Any leaseholder that is taking forward a purchase of any property will be as a matter of course provided with a copy of the lease on that property in advance of the purchase. The onus is on the purchaser, in consultation with their appointed legal representative, to ensure they have understood the terms of the lease before they purchase the property.

The Council will continue to pass on information about other developments being brought forward by RPs as and when that information becomes available,

Point 4

- (a) Confidentiality. In cases, such as ours, where the a-a is a public elected authority, we do not believe that an aa. should permit development partners to shelter behind commercial confidentiality in such a way as to prevent residents from discussing amongst themselves the details of offers. This point applies with even greater force in cases (again such as this, where GLA financial support is proposed) where public funds or guarantees are involved. We request that Southwark, as a.a., be more robust,
- (b) Information on prices at which leaseholds have been/are being bought back by the a.a. We do not understand why information has to be provided through "Creation Trust". However, regardless of the appropriate channel, we request a progress report on the production of anonymised data sufficiently informative to provide assurance to leaseholders that the aa 's valuers are acting fairly and consistently.

The Council notes your comments on confidentiality agreements.

Creation Trust serve as an independent community organisation, representing the views on residents and providing community support across the Aylesbury estate. As

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part of their role they maintain a website with helpful information for leaseholders who are selling their property back to the Council. The Council is working with Creation Trust to provide appropriate and independent information on that website. Discussions with the Trust are underway on what the most appropriate and helpful information for leaseholders on prices would be to include on this website.

We will ensure that the ALAG are contacted when an update to the site has been provided.

Points 5, 6, 8 and 10.

Leaseholders statutory rights/a.a's statutory obligations and discretions (rehousing, advance payment, determination of compensation, enhancement of compensation, etc). These points go to the heart of the appropriate exercise of the

a.a. 's powers. In ALAG's view Southwark in our case is relying on a narrow and legalistic interpretation of its duties to the detriment of the rights of displaced leaseholders. Southwark is giving insufficient weight to government interpretation of the law as evidenced in the o/d circular 06/2004 and in the new circular issued in October 2015 Southwark also needs to heed the Local Government Ombudsman's decision of 15 Jan 2016 on a complaint (ref ID 14019995) brought by a former Heygate Estate leaseholder. As well as citing its fiduciary duty, the a.a. should be aware, among other things, of:

- (i) its wide-ranging discretions under Part 7 / Local Government Act 2000; the decisions of other a.a. 's to offer
 - enhanced compensation (probably Hammersmith and Fulham and certainly Woking Borough Council: see following link:
<http://www.getsurre.co.uk/news/surre-news/sheenwater-compensationpackage-not-good-10992261>
 - capped/subsidised service charges in new leasehold accommodation [see para 119 Inspector's report dated 6 August 2015 (her ref APP/NPCWCPO/N5090/74016) to the Secretary of State on the LB Barnet (West Hendon Regeneration Area) CPO no. 1 2014]

ALAG noted that Cllr Williams stated at the 12 January meeting that he had had discussions with officers about a possible new offer on these matters, notably the timing of advance payments. We request that cabinet instructs the cabinet member to pursue those discussions and to report back before the expected date (first week of May 2016) of the Secretary of State's decision on the Aylesbury Estate Phase 1b/lc CPO.

In the ALAG's previous correspondence the question that was asked of the Council was whether the Council was compliant with Section 39 and Section 52 of the Land Compensation Act 1973. The Council's response was in part to inform the ALAG when the specific duties applied, and to note that at this time, with no confirmed CPO in place, Section 39 and Section 52 did not apply.

However all of the Council's rehousing policies are in place to mitigate the impact on leaseholders and to ensure that appropriate rehousing routes are available to resident

leaseholders in advance of any of the statutory duties applying. The Council's policies go beyond that which is suggested in government circulars and therefore give a wide array of options for leaseholders to enable them to move in advance of a CPO taking effect.

In regard to service changes, these are required to contribute towards the reasonable costs of maintaining buildings, infrastructure and services associated with a property. To cap these would either place additional, disproportionate cost onto other residents or risk that these items are unfunded which could impact on the quality of future maintenance.

As has been previously communicated, the right to an advance payment of compensation (90% of the council's estimate of compensation payable in the absence of agreement) arises when the Council takes possession of a leaseholder's property. This is usually after Vesting, i.e. after completion of the legal vesting process which takes place following confirmation of a compulsory purchase order (not yet the case here). Another occasion is where a Blight Notice has been served and accepted and entry of the property concerned is taken. If a leaseholder on the Aylesbury estate were to serve a Blight Notice on their property the Council would not contest it. The Council can then serve notice of entry and take possession. We would also arrange this so that the payment is made simultaneously to us taking possession.

The Council has also in the past made 90% advance payments to enable leaseholders the opportunity to move from their property and take up a rehousing route, whilst still retaining the option to go to Tribunal. This is negotiated through private treaty and on a case by case basis.

In all cases it is important to remember that advance compensation payments will normally only be made once possession of a property has been taken, and not before. The council is aware that the new Government guidance of 2015 suggests that acquiring authorities should consider making earlier payments where justified to enable claimants to proceed with reinstatement (paragraph 57). In the light of that guidance the council as acquiring authority would consider any requests for advance payments to be made prior to possession being taken on their merits (for example the payment in advance of a deposit on a new property). However the Conveyancing process normally operates so that giving up possession of one property occurs simultaneously with taking possession of the new property, such that earlier payments are not required.

The ALAG will be aware that the Council has already responded to a question from Mr Eckersley about the specific implications of the Ombudsman's recent ruling.

Point 7

Up-front cap on reimbursable surveyor's fees. The a.a appears to persevere with its policy of refusing to deal with the leaseholder's surveyor unless a cap on reimbursable fees is agreed in advance. This is contrary to the requirement that all reasonably-incurred fees are reimbursed, and to RICS guidelines. The a-a. 's current policy offers no flexibility and undermines confidence that the leaseholder will be

effectively represented, and therefore enhances the impression that the a.a. is acting beyond powers with a view to bringing undue pressure on leaseholders. ALAG continues its request for a review.

The Council's policy in this regard has been tested by both the Council's cross party Scrutiny panel and through an Independent Tribunal and on both occasions been found sound. The Council therefore has no reason to change its policy in this regard.

Point 9

Use of outside valuers. ALAG continues its long-standing request that the a.a. appoints outside, rather than in-house valuers, so as to mitigate against the perceived conflict of interest inherent in the line-management responsibilities of council officers.

The Council has now appointed an external firm to act on valuation matters on the Aylesbury estate on the Council's behalf for Phases 2, 3 and 4 of the Aylesbury regeneration programme.

The Council has also made recent changes to our policy around approach to agreeing valuations, and now offers the option that if a home owner's surveyor and the Council's appointed surveyor cannot come to agreement that the Council will pay for an independent expert to value the property and try and seek agreement between the parties. This was reported to Cabinet on 7 June 2016.

Point 11

Clarity on role of development pannerin assessment processes. A progress report on discussions with Notting Hill Housing Trust is requested

Where a leaseholder applies to the Council for rehousing assistance Notting Hill Housing Trust, or any other Registered Provider, have no involvement in any assessment process.

Point 14

Intrusive inquiries-

- (i) Policy and practice The a.a's response appears to confuse the obligations of financial institutions, as lenders, with appropriate assessment policies pursuant to the cabinet's decision of 8 Dec 2015 to permit a leaseholder to make his/her own decision as to how much of pre-existing savings to apply to purchase of a new home. In that context we see no good reason in principle for intrusive and wide-ranging inquiries into the quantum of the leaseholder's capital resources. However we recognise:
 - that the aa (as long as it maintains its discriminatory policy - see point 14(ii) below) might feel it necessary to make inquiries as to the leaseholder's ability to afford the on-going costs of home-ownership where an outcome of

an application for rehousing assistance might be an entitlement to a council tenancy; and, as a separate matter,

- that inquiries by a lessor into the leaseholder's savings and capital might be appropriate to provide assurance the lessee is capable of completing a proposed purchase.
- (ii) Discrimination/Equalities Act. Leaseholders wishing to be rehoused as council tenants are subject to intrusive inquiries into their income and/or savings. Occupiers with other tenures wishing to be rehoused as council tenants are not subject to such inquiries. This is in principle discriminatory. ALAG has yet to hear of any sound reason for this discrimination and believes that it is in breach of anti-discrimination legislation.

ALAG requests further clarification of the a.a's aims, policies, processes and duties in these matters.

We refer you to our previous response on assessing affordability and eligibility for rehousing.

As previously stated, secure tenants and leaseholders are subject to different statutory frameworks under the law of this country. The Council always applies and adheres to the Public Sector Equality Duty when dealing with tenants and leaseholders under their distinct statutory framework as set out in law.

Tenants are offered new tenancies because that is what they are entitled to by law. There is no need for a means test because a tenant's entitlement to a new tenancy arises from their current tenancy, Leaseholders on the other hand are subject to means testing if applying for re-housing assistance because their entitlement to that assistance must be established as it amounts to a subsidy.

Point 15

Home OwnerS Council Please advise whether the HOC agrees that it's remit includes matters such as those referred to above, and if so whether it is willing to devote sufficient time at its meetings to deal with them appropriately.

Creation Trust. ALAG intends to approach Creation Trust with a view to progressing a constructive dialogue, and to ensure that the Trust's role in respect of leaseholders is clear and understood by all concerned. Thank you for your steer in this direction.

The agenda for Homeowners Council meetings is set by the homeowners themselves and can cover any aspect relating to homeownership.

Thank-you for your questions and recent correspondence, which I hope we have now answered fully.

Where members of the ALAG are currently seeking rehousing through the Council or other routes, we would encourage you to engage regularly with officers to ensure that a rehousing pathway can be found for you as soon as possible.

Yours sincerely

A handwritten signature in black ink, reading "Neil Kirby". The signature is fluid and cursive, with the first name "Neil" and the last name "Kirby" clearly distinguishable.

Neil Kirby
Head of Regeneration South

