

# **Committee: Sustainable Communities Scrutiny Panel (call in)**

**Date: 9<sup>th</sup> October 2013**

Agenda item: **3 Appendix 4**

Wards: Abbey, Figges Marsh, Ravensbury

**Subject: Merton Regeneration Programme  
(cabinet Meeting of 9<sup>th</sup> July 2013: agenda item 3)**

Lead officer: James McGinlay, Head of Sustainable Communities

Lead member(s): Cllr Nick Draper, Cabinet Member for Community and Culture  
Cllr Andrew Judge, Cabinet Member for Environmental Sustainability and Regeneration.

Forward Plan reference number:

Contact officer(s): James McGinlay, Head of Sustainable Communities  
Paul McGarry, future Merton Manager.

**Reason for Urgency:** The Chair has approved the submission of the item as a matter of urgency in order that the Panel may give consideration to the issues raised by the call-in and for the Panel to reach a position in accordance with the constitutional provisions.

**Exempt Information:** Appendices 1, 2 and 3 of the officer report are exempt from disclosure on the grounds that they include information pursuant to Part 4B, Paragraph 10.4 and Category 3 of the Constitution (information relating to the financial or business affairs of any particular person (including the authority holding that information)).

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## **Recommendations:**

A. That the Sustainable Communities Scrutiny Panel consider whether to refer the decision back to Cabinet for reconsideration, setting out in writing the nature of its concerns, or agree that the decision made should be implemented with immediate effect.

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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

1.1 The Overview and Scrutiny Commission is asked to consider the call in request together with officer's comments and further information provided in response to the reasons for the call in.

## **2 DETAILS**

2.1. Cabinet resolved at a meeting on 9<sup>th</sup> July 2013 to note the emerging regeneration proposals put forward by Merton Priory Homes and to await

with interest, the results of the initial engagement with residents, before considering the council's role and potential stake in the project. (MPH's resident engagement programme is now underway).

- 2.2. Cabinet also asked officers to formally work with Merton Priory Homes to determine how the regeneration project could be delivered for the benefit of residents and our communities.
- 2.3. The cabinet decision has been called in for reasons set out in part 4 of the call in request form.
- 2.4. The council's procedure for dealing with call in requests is set out in paragraph 16 of Part 4E of the constitution.
- 2.5. The monitoring officer has accepted the call-in as valid and the Sustainable Communities Panel is required to consider the reason for the call in and decide if it wishes to refer the decision back for reconsideration or to agree that the decision taken was fair and should be implemented as agreed with immediate effect.

### **Response from Officers**

- 2.6. ***Question: Breach of due consultation.***
- 2.7. *Despite the fact that discussions have been on-going for some time between Merton Council and MPH (Merton Priory Homes) and a presentation made to the Circle Housing Group Management Board in December 2012, no consultation with ward councillors or the scrutiny panels was undertaken. Because the report appeared on the cabinet agenda at late notice (with the paper only published one working day before the cabinet meeting), there was no opportunity for pre-decision scrutiny.*
- 2.8. ***Response***
- 2.9. The reason for urgency, agreed by the Chair, was to ensure that Cabinet were fully aware of the outline proposal put forward by Merton Priory Homes prior to commencement of MPH's resident engagement programme on Eastfields, High Path and Ravensbury Estates.
- 2.10. The Cabinet decision was simply to note the content of MPH's proposals and to establish a working group, giving officers the mandate to work through a number of issues related to a regeneration project of this scale.
- 2.11. It would be premature for Cabinet at that stage to give support, or otherwise, to a project that is in its infancy without first understanding the views of MPH customers and other residents in the estates.
- 2.12. At this stage, and at the point of the Cabinet decision, there has been no decision taken to proceed with a full-scale regeneration option on the three estates. MPH's proposals are either;
  - a) Continue to undertake the agreed Decent Homes commitments as set out in the Stock Transfer, or;
  - b) Consider a more holistic approach to providing better homes and stronger communities through a wider regeneration option

- 2.13. Both these scenarios are presented to residents as part of MPH's programme of engagement which started in July and will conclude in October 2013.
- 2.14. Section 5 of the 9<sup>th</sup> July 2013 Cabinet report sets out a timetable which clearly states that a further report to Cabinet and Full Council is expected in November 2013. These reports will reflect on the community engagement feedback and will influence Cabinet and Full Council's consideration of a wider regeneration option.
- 2.15. The regeneration proposals are from MPH; it is therefore premature for the council, either at local member or committee level to be consulted on or take any decision on the proposals without first understanding the views of residents and setting up formal working groups and appropriate governance arrangements with MPH. This has now commenced as a result of the Cabinet decision.
- 2.16. **Question: Breach of a presumption in favour of openness.**
- 2.17. *No details of the feasibility study or financial implications have been disclosed (even confidentially); the transfer of the housing properties to MPH in 2010 represented one of the most important financial transactions undertaken by Merton Council and the agreement has financial implications for at least 20 years, particularly in matters concerning regeneration. It would be expected that both Merton Council and MPH would have evaluated the implications of these financial arrangements (even at a high level) at this stage of the process, particularly within the Circle Group. If these arrangements have not been analysed within Merton Council, there is an urgent need to do so and the results reported as part of this report. If MPH is working with Merton Council in an open dialogue, it would be expected that they would have shared details of the December 2012 presentation with Merton Council and these details should have been made available to cabinet and councillors. The cabinet paper asks cabinet to seek to influence MPH but the underlying basis for the powers available to cabinet is not clear.*
- 2.18. **Response**
- 2.19. Merton Priory Homes have undertaken a feasibility study based on their site capacity study and discounted cash-flow model which informed the Circle Group Board's decision in December 2012 to financially support emerging regeneration proposals in Merton. MPH then approached LBM in January 2013 to discuss how the concept could be taken forward in partnership with LBM. There was only a 5 month period for discussions, which was not sufficient to explore every financial impact; again, premature to do so without understanding residents' views.
- 2.20. A copy of MPH's presentation to LBM outlining their proposal is attached at Appendix 2 to this report.
- 2.21. Merton Council have procured independent experts to supplement the Council's in-house regeneration team to advise on a methodology and approach for the exploration of the financial impacts, risks and rewards of the regeneration proposals. The Council would normally approach such a project using a Development Appraisal method, rather than a cash-flow model.

- 2.22. The Cabinet decision on 9<sup>th</sup> July gave officers the mandate to work formally with MPH to determine the financial implications of the proposals, risk and reward for the council and the overall deliverability of the scheme. The underlying basis for decision making relates to the council's role as planning authority, housing authority and in the provisions made in the Housing Stock Transfer Agreement and Development Agreement (2012)
- 2.23. A project board was established in July 2013 jointly chaired by the Director of Corporate Services, Director of Environment and Regeneration and the Director for Community and Housing. The board oversees four key work-streams, exploring the council's role and impacts in relation to;
- Planning
  - Legal
  - Finance
  - Housing
  - Communications
- 2.24. The outcomes from this work as well as MPH's consultation responses will be the focus of the November 2013 Cabinet and Full Council reports, and to consider whether LBM supports in principle, MPH's regeneration proposals.
- 2.25. **Question: Breach of consideration of alternatives**
- 2.26. *Depending on the evaluation of the financial implications under the existing transfer arrangements, an alternative of renegotiating these arrangements to result in a better regeneration programme for both parties must be considered. This would obviously be confidential.*
- 2.27. The alternative option to regeneration was noted in paragraphs 3.1 and 3.2 of the 9<sup>th</sup> July Cabinet report. At the point of the Cabinet decision, the alternative option to regeneration was for MPH to proceed with their Decent Homes programme as agreed as part of the 2010 Stock Transfer.
- 2.28. The question posed above, is a refinement of the regeneration option, in relation to finance; which is now underway as part of the formal working arrangements now set up post-Cabinet with MPH. It is premature for the Council to make any decisions in relation to finance, or consider amendments to the Stock Transfer Agreement until the Council has understood the views of residents. As above in paragraph 2.25, these considerations will frame the content of forthcoming reports to Cabinet and Full Council in November 2013.

### **3 ALTERNATIVE OPTIONS**

- 3.1. Alternative options were outlined in paragraphs 3.1 and 3.2 of the Cabinet Report of the 9<sup>th</sup> July 2013.
- 3.2. For the purposes of this report there are no alternative options. The monitoring officer has deemed the call in request to be valid and the Panel is required to consider the request as the matter falls within its remit.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. None for the purpose of this report. Any consultation undertaken, as part of any decisions being considered, will be referred to in the report on which any decisions were/are based on.

## **5 TIMETABLE**

- 5.1. An indicative timeline for the regeneration project, should it proceed is provided in the 9<sup>th</sup> July Cabinet Report paragraph 5.2.
- 5.2. For the purposes of the Call in request, the timetable for LBM decision making is;
- 10<sup>th</sup> October 2013                      MPH Consultations close
  - 11<sup>th</sup> November 2013                      Cabinet
  - 20<sup>th</sup> November 2013                      Full Council

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. Merton Priory Homes have committed to an open book accounting process to facilitate the understanding of the impact on residents and council services.
- 6.2. Following the decision by Cabinet on 9<sup>th</sup> July 2013, a formal working group and project board has been established to advise on financial, property and resource implications, which will be reported to Cabinet and Full Council in November 2013.
- 6.3. As requested in the call-in request form; Merton Priory Homes' financial statements are available online and can be downloaded from;
- <http://www.circle.org.uk/corporate/media/publications/annual-report-and-financial-statement-2012-13,4055,LA.html>

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. None for the purposes of this report, but for future stages of the project, consideration must be given to: Planning Act (2008), Housing Act (2004) and the development agreement contained within the Merton Housing Stock Transfer (2010)
- 7.2. Following the decision by Cabinet on 9<sup>th</sup> July 2013, a formal working group and project board has been established to consider any legal implications, which will be reported to Cabinet and Full Council in November 2013.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. None for the purposes of this report. However, MPH have undertaken an Equality Impact Assessment (EIA) in line with legal requirements and Circle Housing Group policy in conjunction with the resident engagement process over the summer of 2013. MPH will need to undertake a full EIA before taking any decisions on potential regeneration options. The EIA covers all

equality strands and will be reviewed and updated as the engagement programme progresses.

**9 CRIME AND DISORDER IMPLICATIONS**

9.1. None for the purposes of this report.

**10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. None for the purposes of this report.

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix 1: Minutes of meetings between LBM and MPH relating to the regeneration of properties in Merton (**CONFIDENTIAL**)
- Appendix 2: MPH presentation to LBM Cabinet Members (February 2013) (**CONFIDENTIAL**)
- Appendix 3: Stock transfer agreement relating to regeneration of properties (**CONFIDENTIAL**)

**12 BACKGROUND PAPERS**

12.1. Documents requested for call-in:

Minutes of meetings between LBM and MPH relating to the regeneration of properties in Merton	See Appendix 1
MPH presentation to LBM Cabinet Members	See Appendix 2
Stock Transfer Agreement relating to regeneration of properties. <i>(Summary version attached for regeneration purposes. Full version available in Member resource rooms / Group offices)</i>	See Appendix 3
MPH financial statements for MPH and Circle Group for 2010/11, 2011/12, 2012/13 financial years	These are available online at <a href="http://www.circle.org.uk/corporate/media/publications/annual-report-and-financial-statement-2012-13,4055,LA.html">http://www.circle.org.uk/corporate/media/publications/annual-report-and-financial-statement-2012-13,4055,LA.html</a>
MPH Presentation to Circle Housing	MPH / Circle do not make their board reports or minutes public,

Group Management Board	which is very much in line with all other housing associations, as they can contain commercially sensitive information.
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