



Appendix 2 of this report is Exempt/Confidential under
Access to Information Procedure Rules 10.4 (3)

Report of : Director of City Development

To : Executive Board

Date: 2 September 2008

Subject: 9 NEWTON GROVE

Electoral Wards Affected:

CHAPEL ALLERTON

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In
(Details contained in the report)

Executive Summary

This report has been prepared at the request of Council, following a deputation to Full Council on 2 July 2008, by a local residents group, known as the Newton Futures. The purpose of the deputation was to bring to the attention of Full Council, the issues arising from the disposal of 9 Newton Grove, a listed building situated in the Chapeltown Conservation area (attached as Appendix 1).

The report provides information relating to the sale and also details the subsequent background and action taken and proposed by the Council.

1.0 Purpose of This Report

1.1 The purpose of this report is to detail the background of the sale of the above property subject to the deputation to Full Council on 2 July 2008, by a local residents group, known as the Newton Futures together with events that have taken place subsequent to the sale and also to seek approval to take appropriate action to ensure that the property is transferred into responsible ownership, properly refurbished in accordance with its Listed Status and brought back into beneficial use.

1.2 The report also seeks approval to inject into the capital programme the sum referred to in the confidential appendix.

2.0 Background

2.1 Number 9 Newton Grove is a large stone inner terrace house divided into flats, which required extensive renovation when it was sold. The property is Grade II Listed.

2.2 The property was declared surplus by the Director of Housing and Environmental Health Services on 30 September 2002¹ and the Director of Development Department approved the disposal of the property on 23 July 2003². It was marketed by an external agent with a closing date for offers of 11 March 2004.

2.3 Approval was given to proceed with the top offeror, but in the event that this should fail the property would be offered to the next offerors in descending order. Unfortunately, the top offeror withdrew due to problems with funding. The top offeror subsequently made a revised offer but this was lower than some of other the offers, and was not considered acceptable.

2.4 The property was subsequently offered to the second highest offeror, Sadiq Mughal and Ruksana Mughal who confirmed that they intended to proceed with the purchase of the property but they too revised their offer after a mortgage surveyor revealed the true extent of works required to the property.

2.5 On the advice of Local Estate Agents, acting on behalf of the Council, it was considered that the revised offer could be recommended, given the condition of the property and in view of the changes in the local property market since the offers were originally received. The revised offer is detailed with confidential appendix attached.

2.6 Approval was given to proceed with the revised offer by the Director of the Development Department and on the 15 March 2005³, on condition that completion would take by 31 March 2005.

2.7 The sale successfully completed on this date. A condition was incorporated in the sale documents, requiring the property to be refurbished to the satisfaction of the Council, within six months of completion of the sale, together with a restriction prohibiting a sale of the property until the works had been completed and approved by the Director of City Development . This condition was reinforced by the inclusion of an option in the sale agreement, enabling the Council to serve a buy back notice on the purchaser, if works were not carried out within the defined six month period . This option could be exercised by serving written notice upon the owner, within a period of five years from the completion of the sale (31 March 2005), enabling the Council to re-acquired the Property at the lower of the current market value or the original purchase price. On service of the notice, the owner will then has a further period of six months to undertake the refurbishment works , and if this condition was not fulfilled, then the Council could complete the purchase and re-acquire the property.

2.8 The refurbishment period expired on 30 September 2005 without the works commencing on the property. This is still the case at the present time.

2.9 Numerous letters have been sent out to the purchasers, Mr and Mrs Mughal requesting that the works be carried out to the property. Site meetings have also

taken place with officers in order to explain what is required with regard to the works. During telephone conversations, the owners have promised on several occasions to commence the works and have even offered to submit a schedule of works, but until very recently this has not been provided.

- 2.10 A local residents group, known as the Newton Futures, in conjunction with one of the Ward Members, have become increasingly concerned at the condition of the property. The group have campaigned for almost two years for the Council to take action, and this culminated in a deputation to Full Council on 2 July 2008 in order to make the Council fully aware of the condition of the property and the impact upon local residents. The details are contained in Appendix 1 attached to this report.
- 2.11 Squatters were occupying the property up until November last year, when the owner obtained a Court order for their removal and the property has also been linked with drug taking activities and anti social behaviour.
- 2.12 A report was considered by the Chief Asset Management Officer, in May 2007⁴ following legal advice as to what options were available to the Council in terms of re-acquiring the property from the owner. These are detailed in the confidential appendix attached.

3.0 Main Issues

- 3.1 In view of the ongoing deterioration of the property, and the continued failure of the owners to take action to refurbish the property, they were reminded on several occasions that the Council could serve the buy back notice, in view of the fact that the six month period for works to be commenced and completed to the satisfaction of the Council, had long expired.
- 3.2 Negotiations therefore commenced with the owners, Mr and Mrs Mughal late last year and they agreed to sell the property back to the Council at the original purchase price and upon terms detailed in the confidential appendix to this report. This course of action was approved by the Chief Asset Management Officer on 21 December 2007⁵.
- 3.3 An identified third party (detailed in the confidential appendix) provisionally agreed to enter into a back to back sale agreement with the Council, once the property was re-acquired from the current owners Mr and Mrs Mughal, but they subsequently decided earlier this year to withdraw from the proposed transaction, due to the fact that they had received a higher offer from another party (also detailed in the confidential appendix), who was prepared to carry out the refurbishment works to the property and bring it back into beneficial use. This is one of the options for the Council to consider and is detailed in the confidential appendix attached to this report.
- 3.4 During this time, the condition of the property continued to deteriorate causing further distress and inconvenience to the adjoining owner and the local community.
- 3.5 As a consequence, a Notice of intention to serve an Untidy Land Notice under Section 215 Town and Country Planning Act 1990 was issued to the owners in the Autumn of 2007, but this failed to persuade them to take action to carry out urgent repairs to and improve the external appearance of the property by removing rubbish etc.
- 3.6 A Section 215 Notice (Untidy Land Notice) was therefore duly served on the owners on 24 January 2008; and they failed to implement the works detailed in the notice within the 28 day period specified. The works can be summarised as follows:-

- i) reinstatement of missing roof lights with roof lights to match those originally installed.
- ii) replacement of loose, slipping or missing roof slates to the north and south facing roof slopes and rebedding and replacement of missing ridge tiles, with materials to match the originals.
- iii) replacement of rotted timber guttering on the south elevation with new timber guttering to match the original and to paint the gutter black.
- iv) replacement of missing sections of down pipe to the south elevation to match that existing.
- v) removal from the site of various items of scrap/debris deposited on the land including shopping trolleys, gas cylinders, wooden pallets, plastic sheeting etc etc.
- vi) cutting back and clearing away overgrown vegetation from the land.
- vii) trimming back of boundary hedge to not less than 2m in height.

3.7 As a result, and under the terms of the Notice, the Council, by way of its statutory powers is now carrying out the work in default, and the owners will be liable for the cost. A legal charge will also be placed on the property in the local land charges register which will enable the Council to recover the cost of the works incurred by the Council.

3.8 In addition, the Coach House, situated in the rear garden of the property had also fallen into a serious state of disrepair. As a result, the Council, also by way of its statutory powers entered the property, and partially demolished this building as it represented a danger to the public and, created a risk of causing serious injury or worse.

4.0 Implications for Council Policy and Governance

4.1 It had been hoped that the sale of 9 Newton Grove, together with the methodology applied ie the incorporation of the refurbishment condition would, have assisted in the corporate policy of creating better neighbourhoods and confident communities. Unfortunately to date, as a result of the issues associated with this property, this has not happened. By bringing pressure on the purchasers, it was hoped that this could finally be achieved, but thus far, this course of action has failed to persuade the owner to refurbish the property and bring it back into beneficial use in accordance with the conditions incorporated in the sale agreement.

5.0 Legal and Resource Implications

5.1 If the Council is to exercise the Buy Back then in normal circumstances an appropriate budget would need to be identified to repurchase the property. In this case however, a local Housing Association has been identified and has agreed to purchase the property from the Council by way of a back to back sale. The details of the Association are contained in the confidential appendix. Some funding may be required however, should the Housing Association be unable to pay the same price as the Council paid the owner in repurchasing the property.

- 5.2 There is a difference between the current market value of the property in its existing condition and state of repair, the original purchase price and the price offered by the identified party detailed in the Confidential Appendix, which could lead to such a scenario. This inclusion is detailed in the confidential appendix.

Under section 24 and 25 of the Local Government Act 1988, a Local Authority can provide financial assistance or gratuitous benefit for privately let housing accommodation, only in accordance with the general consents issued by the Secretary of State from time to time or a specific consent.

General consent B permits the disposal of a dwelling house to a registered social landlord for purposes of works of conversion, rehabilitation and improvement and afterwards for housing accommodation subject to certain conditions. The proposed disposal to the identified third party will satisfy these conditions, in that:-

- i) The accommodation will be vacant on disposal.
- ii) The Council will dispose of the freehold.
- iii) The estimated cost of the works exceeds 30% of market value at disposal.
- iv) The redevelopment period will not exceed 3 years.
- v) The identified third party will let the property on periodic tenancies.
- vi) The Council will not manage or maintain the property after the works have been completed.

The Director of Environment & Neighbourhoods confirms the aggregate number of dwelling houses disposed of under this consent does not exceed 50 (or 25% of dwelling houses owned) in the current financial year.

- 5.3 Again in normal circumstances if a buy back notice is served, the Council will have maintenance responsibilities in respect of Newton Grove until an alternative purchaser could be found. This situation will not arise if a back to back sale is agreed with the Housing Association.

- 5.4 It is to be noted, that the Council would not of its own volition be seeking to dispose of the property at less than best consideration in these circumstances. The original sale to the purchaser was at market value. The Council would only become involved in the transfer of the property to the identified third party as a means of satisfying the aspirations of the original disposal ie to bring the property back into beneficial use, in the hands of a responsible owner.

6.0 Confidentiality

- 6.1 The information contained in the Appendix attached to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in respect of certain companies and charities. It is considered that since this information was obtained through inviting best and final offers for the property/land and also one to one negotiations then it is not in the public interest to disclose this information at this point in time as this could lead to random competing bids which would undermine this

method of inviting bids and affect the integrity of disposing of property/land by this process. Also it is considered that the release of such information would or would be likely to prejudice the Council's commercial interests in relation to other similar transactions in that prospective purchasers of other similar properties about the nature and level of offers which may prove acceptable to the Council. It is considered that whilst there may be public interest in disclosure, much of this information will be publicly available from Land Registry following completion of this transaction and consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. It is therefore considered that this element of the report should be treated as exempt under Rule 10.4.3 of the Access to Information Procedure Rules.

7.0 Recommendation

7.1 The recommendation is contained in the confidential appendix attached to this report.

Footnote

1. Report to Director of Housing and Environmental Health dated 30 September 2002, seeking approval to declare the property surplus.
2. Report to the Director of Development Department, dated 23 July 2003 seeking approval to the disposal of the property.
3. Report to the Director of Development Department, dated 15 March 2005 seeking approval to a revised offer for the property.

An appendix was attached to the report, marked confidential under Access to Information Procedure Rule 10.4 (1).

4. Report to the Chief Asset Management Officer dated 23 May 2007 seeking approval to further discussion with local residents, with regard to a possible back to back sale.

An appendix was attached to the report, marked Confidential under Access to Information Procedure Rule to 4 (3).