

## **Annex 1 - Leaseholder Approach**

1. Within the 40 apartments identified for needing significant investment, including the demolition of the bathroom 'pod' and replacement with a new build extension, are two leasehold properties. These were formally part of the council's housing stock but were bought through Right to Buy and granted respective 125 year leases, they are therefore in private ownership. This creates additional considerations in the planning of major improvement works.
2. The works proposed in the main body of this paper are major and intrusive and would require all residents of the buildings to leave their homes. Within the respective leases for these 2 leasehold properties (supplemented by legislation regarding collection of residential service charges), it prescribes specific circumstances in which the council can exercise its right as landlord to carry out these works and to reclaim the costs for doing so. Obtaining consent for the works from leaseholders can be a complicated process and result in delays which could impact the council's ability to carry out the necessary repair and improvement works across the wider estate.
3. Both leasehold properties at Bell Farm are sublet and are not the principal residence of either leaseholder.
4. The below options outline the possible ways to carry out the necessary work to the leasehold properties.

### **Option 1 - Leaseholders fund the cost of repair and improvement works**

5. The lease for each property has been examined and contains a covenant from the leaseholder to pay a proportionate/reasonable amount of any costs the council as landlord incurs in repairing and improving the homes:
  - (i) The demised premises (i.e. the flat demised by the lease in question);

- (ii) The building in which the demised premises is situated/forms part of;
  - (iii) Any common parts or services (including drains, gutters and external pipes)
- 6. The cost of any repair and improvement works to the leaseholder properties could potentially be recouped from the leaseholders via the service charge provisions in their respective leases over an agreed period of time through the lease, subject to (i) the works having been carried out to a reasonable standard, (ii) the costs having been reasonably incurred by the landlord, and (iii) the landlord having consulted the leaseholders and secure tenants – pursuant to the provisions of Paragraphs 16A, 16B and 16C of Schedule 6 to the Housing Act 1985 and Sections 19 and 20 of the Landlord and Tenant Act 1985.
- 7. Where costs which the landlord wants a leaseholder to pay/contribute towards relate to improvements rather than repairs, the landlord must be able to show that it has considered both: (a) the availability of an alternative and less expensive remedy, and (b) the views/ opinions and financial means of the leaseholders who will be expected to pay for the improvement works.
- 8. This option will require careful consultation with the two leaseholders and will require support from the wider housing team and Legal Services to ensure compliance with the lease and the Council's obligations as landlord pursuant to the legislation referred to above. If leaseholders are not in agreement with the scope of works the negotiations could become protracted and delay the wider investment works.

### **Option 2 – Buy back the 2 leasehold properties at market value**

- 9. The leaseholders may decide they do not wish to fund the level of works required and may seek to sell their properties back to the Council. Despite the poor state of the homes it is anticipated they still have a market value of between £110-130k based on the last ownership change of August 2019 when the land registry official copy stated a value of £100k.
- 10. This would be a positive option in terms of both removing legal complications, providing greater control to the council to manage the

schedule of works and timetables, and would provide two additional council homes at the end of the works.

11. If the Leaseholders wish to sell their homes back to the Council, a RICS valuation would be obtained in order to support the agreement of a purchase price. In addition to the cost of the purchase price, there would also be a small amount of associated costs such as legal costs, valuation and Land Registry fees. Also stamp duty land tax might be payable on the purchase price dependant on the value. There is an existing budget for buying back ex-council owned properties (approved at Executive on 15 November 2017) which contains the capacity to sufficiently cover the purchase of these 2 properties.

### **Option 3 - Compulsory Purchase of the 2 leasehold properties**

12. If the Council's ability to discharge its repair and maintenance responsibilities is hindered by a leaseholder because the leaseholder refuses to consent to the works or refuses to sell/surrender their leaseholder interest in the flat back to the Council voluntarily, then the council could consider potentially making a Compulsory Purchase Order.
13. However a CPO should be an absolute last resort. The process is extremely complicated and requires obtaining approval from the Secretary of State which would only be granted if it could be evidenced that a CPO was proportionate and justified in the public interest. CPO is a very lengthy, resource-consuming and expensive process with many different mandatory stages involved and therefore it is not recommended in these circumstances.