

<b>Key Decision Required:</b>	<b>YES</b>	<b>In the Forward Plan:</b>	<b>YES</b>
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**CABINET**

**17 September 2021**

**REPORT OF THE DEPUTY LEADER, PORTFOLIO HOLDER FOR CORPORATE FINANCE AND GOVERNANCE AND THE PORTFOLIO HOLDER FOR HOUSING AND MONITORING OFFICER**

**A.9 FREEHOLD PURCHASE OF A RESIDENTIAL PROPERTY AND CONFIRMATION OF AUTHORITY FOR A PROPERTY BUY BACK**

(Report prepared by Heidi Foster and Lisa Hastings (Monitoring Officer))

**PART 1 – KEY INFORMATION**

<b>PURPOSE OF THE REPORT</b>
To seek approval from Cabinet for the leasehold purchase of a two bedroom residential property in Walton on the Naze to meet local housing needs. In addition, to receive the Monitoring Officer’s report regarding the omission in respect of a recent purchase and give consideration to confirming authorisation for a buy back of a three bed house in Dovercourt for house purposes.
<b>EXECUTIVE SUMMARY</b>
<p>The Council has a target to bring 200 additional homes into the council housing stock in order to meet rising demands for high quality, affordable housing in the district. These homes will be acquired or built via a range of approaches.</p> <p>The proposal for one of the properties is in respect of an opportunity to purchase a vacant two bedroom ex-Council flat that is currently for sale on the open market in Walton on the Naze. The second decision sought is to confirm the purchase of a three bedroom house on Laurel Avenue in Dovercourt through a right of first refusal.</p> <p>For a number of years the Council has had a strong demand for two bedroom flats and the first property meets the criteria set out in the Housing Acquisitions and Development Strategy. There are currently 11 families on the Housing Register seeking a two bedroom flat in the Walton on the Naze area.</p> <p>In respect of the Walton on the Naze property, in May 2021 Portfolio Holder approval was obtained to initiate the Council’s Property Dealing Procedure, to obtain an independent valuation of the property and to negotiate a price with the owners.</p> <p>An independent market valuation has now been obtained and negotiations with the owner have been completed satisfactorily, to enable the purchase to be progressed to a</p>

conclusion. Purchasing this property will add an additional property to the Council's housing stock in the Housing Revenue Account in an area of high demand.

In respect of the Laurel Avenue property in Dovercourt, Portfolio Holder approval was granted in October 2019 to initiate the Council's Property Dealing Procedure. A notice of a forthcoming decision by the Portfolio Holder to purchase the property was published on 11<sup>th</sup> December 2019. An independent valuation was also obtained and the Portfolio Holder decision report written and approved by the Council's Management Team.

The Portfolio Holder decision from October 2019 to initiate the Property Dealing Procedure for the property on Laurel Avenue in Dovercourt has incorrectly been relied upon to provide authority for the purchase of the property, although both Portfolio Holders confirmed they were aware of the proposed transaction and supported it. The Monitoring Officer is under a duty to report this omission to Cabinet for them to give consideration to granting authority for the purchase for housing purposes. Further information concerning this purchase is set out in the body of the report.

Part B refers to the detail of negotiations in respect of the Walton on the Naze property.

## RECOMMENDATIONS

**It is recommended that Cabinet:**

- **Authorises, in principle, the terms of the freehold purchase of the property in Walton on the Naze for inclusion into the Council's housing stock;**
- **subject to its decision on terms, authorises the Corporate Director for Operations and Delivery to enter into a contract and transfer deed in consultation with the Deputy Chief Executive to complete the purchase of the Walton-on-the-Naze property as set out in the report in Part B of this agenda;**
- **receives and considers the Monitoring Officer's report and in response, approves the purchase of the residential property in Dovercourt for housing purposes; and**
- **acknowledges that internal control arrangements have been increased to ensure such a transaction is not completed without the necessary approvals in place.**

## PART 2 – IMPLICATIONS OF THE DECISION

### DELIVERING PRIORITIES

Our priorities include providing decent affordable housing and to ensure all our residents live in high quality housing which meets local needs.

Supporting the supply of affordable housing and to add additional properties to the Council's own housing stock – working towards the 200 home target as set out in the Housing Strategy.

Managing public money effectively meaning value for money principles are embedded in the delivery of all our services.

## **FINANCE, OTHER RESOURCES AND RISK**

### **Finance and other resources**

The purchase of properties carries a financial cost but brings additional dwellings for housing purposes into the Housing Revenue Account.

The purchase of the Walton on the Naze property is to be wholly funded by section 106 agreements for affordable housing. Further detail is set out in the Part B report.

The financial out-turn for 20/21 made the necessary adjustment for the purchase of the Dovercourt property at a total of £82,120, that was 30% funded from capital receipts which have been generated from previous Right to Buy sales and in order to comply with capital receipt pooling regulations 70% was funded from the Housing Revenue Account (HRA) New Build and Acquisitions fund.

### **Risk**

Officers have not identified any significant risk associated with the proposed purchase other than the risk associated with the Right to Buy – a financial risk that is inherent to almost all Council owned housing.

Approval from Cabinet is required for the Laurel Avenue property as it has already been purchased. There is a reputational risk associated with this decision, as the Council has not followed its governance arrangements in this instance but operational measures and internal controls have been amended and increased to ensure that this event does not occur again.

## **LEGAL**

In coming to decisions in relation to the management or procurement of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the District.

Section 17 of the Housing Act 1985 provides the principal power for the acquisition of land for housing purposes.

Pursuant to Section 9 of the Housing Act 1985 (“the 1985 Act”), a local housing authority may provide housing accommodation by acquiring houses. Section 24 of the 1985 Act provides that the Council acting as a housing authority may make such reasonable charges as they may determine for the tenancy or occupation of their houses.

The purchase price paid for the Laurel Avenue property was below £100k meaning that it is would have been a Portfolio Holder decision to make the purchase.

Under Section 5A of the Local Government and Housing Act 1989, the Monitoring Officer is under a statutory duty to report to Cabinet in relation to an executive function, if they consider that any omission has given rise to unlawfulness. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The requirements of Section 5A are reflected within Article 12 of the

Council's Constitution. Both the Head of Paid Service and Chief Financial Officer have been consulted prior to this report.

It came to the Monitoring Officer's attention in August that the Laurel Avenue property had been purchased for housing purposes following a Portfolio Holder Decision to initiate the Property Dealing Procedure but a decision had not been made by the relevant portfolio holder, which due to the value of the purchase price should have been made by the Portfolio Holder for Assets in consultation with the Housing Portfolio Holder.

An exploration of the circumstances have been undertaken and it is clear it was an operational error and omission.

Unfortunately, it is not possible to stop the decision from being implemented as the purchase has already occurred and the property let however, it is important that the purchase is properly authorised for inclusion within the Council's Housing Revenue Account and stock for housing purposes.

Although internal controls were in place regarding this type of transaction both the Assistant Director for Housing & Environment and Deputy Chief Executive have increased these controls and implemented tighter operational measures to ensure this does not happen again.

Following receipt of such a report, Cabinet are required under Section 5A, to notify all members of the outcome of receiving and consideration of the Monitoring Officer's report and a copy of the minutes will be circulated to all members.

#### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

**Ward** Walton and Dovercourt Wards – Walton on the Naze and Dovercourt All Saints

#### **Climate Impacts**

The purchase of these properties does not present a direct impact on the Council's target for net zero greenhouse gas emissions from its business operations by 2030. It does however present an opportunity to improve the energy efficiency of the properties as part of the refurbishment process and thereby reduce the greenhouse gas emissions generated by the eventual tenants. The aim will be to improve the energy performance of the property as much as reasonably possible.

### **PART 3 – SUPPORTING INFORMATION**

#### **BACKGROUND**

For a number of years the Council has had a very strong demand for two bedroom flats in Walton. However our stock has dwindled and turnover of tenancies is very slow.

Officers have sourced a vacant split level two bedroom first floor ex-Council flat in a fair condition that is currently for sale on the open market. The property has been viewed by the Development & Building Manager and Senior Tenancy Management Officer and have been identified as a property of high demand and the construction is known to the Building Services Team. It is located within a block of flats where the Council owns most of the properties.

The property is located in Walton on the Naze which is a priority area for acquisitions as set out in the Housing Acquisitions and Development Strategy adopted by Cabinet in October 2020.

The Laurel Avenue property was purchased from the Council in 2017 under the Right to Buy scheme. The relatives of the owner were selling the property on her behalf in 2019. As they were at that time within the Buyback Right of First Refusal and repayment of discount periods the Council has a right to first refusal.

For a number of years the Council has had a strong demand for three bedroom accommodation in Tendring. However the stock has dwindled and turnover of tenancies is very slow. Identifying ex-Council properties that have been sold originally through the Right to Buy scheme present value for money and are easier to maintain as their construction is known to the Building Services Team.

Having only recently been sold it made sense for the Council to purchase back the Laurel Avenue property.

#### **CURRENT POSITION**

The Housing Tenancy Management and Building Services Teams have viewed the property in Walton on the Naze and carried out a full assessment. In May 2021 Portfolio Holder approval was obtained to initiate the Property Dealing Process and an independent valuation was undertaken.

The purchase of the Laurel Avenue property in Dovercourt was completed in November 2020 and is now occupied by a council housing tenant.

#### **FURTHER HEADINGS RELEVANT TO THE REPORT**

None

#### **BACKGROUND PAPERS FOR THE DECISION**

None

#### **APPENDICES**

The acquisitions matrix and valuation for the Walton property are included as Appendices in Part B