

Homes for Haringey

PROPOSAL IN RESPECT OF EIGHT QUALIFYING LONG TERM AGREEMENTS RELATING TO THE HOUSING CAPITAL WORKS PROGRAMME, INCLUDING MEETING THE DECENT HOMES STANDARD

Prepared pursuant to
The Service Charges (Consultation Requirements) (England)
Regulations 2003
Schedule 2

1. The name and address of every party to the proposed agreements other than the Council:
 - (i) Bucknall Austin Ltd, Cutlers Court, 115 Houndsditch, London EC3A 7BR
 - (ii) John Rowan & Partners LLP, 10th Floor CP House, 97-107 Uxbridge Road, Ealing, London W5 5TL
 - (iii) Porters Raper Partnership, Julco House, 26/28 Great Portland Street, London W1W 8QT
 - (iv) Ridge & Partners LLP, 105/106 New Bond Street, London W1S 1DN
 - (v) Apollo Group Holding Ltd, Conquest House, Church Street, Waltham Abbey, Essex EN9 1DX
 - (vi) Lovell Partnership, Churchwood House, 116 Cockfosters Road, Barnet, Herts EN4 0DR
 - (vii) Mulalley & Company Ltd, Teresa Gavin House, Woodford Avenue, Woodford Green, IG8 8FA
 - (viii) Wates Group, Wates House, Station Approach, Leatherhead, Surrey KT22 77SW

2. There is no connection between the London Borough of Haringey and:
 - (i) Bucknall Austin Ltd
 - (ii) John Rowan & Partners LLP
 - (iii) Porters Raper Partnership
 - (iv) Ridge & Partners LLP
 - (v) Apollo Group Holding Ltd
 - (vi) Lovell Partnerships
 - (vii) Mulalley & Company Ltd
 - (viii) Wates Groupas defined by the Service Charges (Consultation Requirements) (England) Regulations 2003, Schedule 2.

3. At this stage of the procurement process the Council is not able provide leaseholders with an estimate cost of the works in relation to their flat or block or in relation to the unit cost or hourly or daily rate applicable to the proposed works or the date or dates by which that information will be available. This is because the Council has not yet decided on specific works projects to be carried out pursuant to the proposed long term agreements. See paragraph 6 below.
4. The intended duration of the agreements is four years, beginning in May 2007.
5. The Council has received observations on Notices of Intention dated 21 July 2006 to which it was required to have regard. For a statement summarising the observations and the Council's responses to them, see Appendix 1.
6. **Dispensation from the some of the requirements of the Regulations.** On 30 March 2007 the Leasehold Valuation Tribunal dispensed with the requirement for the Council to provide leaseholders with information under Schedule 2, paragraph 4(4)-(7) of the Service Charges (Consultation Requirements) (England) Regulations 2003.



Appendix 1 to the Proposal

The Decent Homes Programme - A summary of leaseholder observations and the Council's responses to them in relation to Notices of Intention dated 21 July 2006.

This is a statement of the observations received from leaseholders regarding the two Notices of Intention (dated 21 July 2006) to enter into long term agreements in relation to the proposed programme for decent homes. This statement also contains the responses made to the leaseholders by Homes for Haringey (HfH) acting on behalf of the Council.

- a) **Apportionment of the costs of compliance work to leaseholders.** A leaseholder asked how the anticipated cost of the consultancy services to be provided under the contracts would be recharged to leaseholders. Homes for Haringey answered that leaseholders would have to pay a proportion of the cost with regard to their property but only if work was carried out in relation to their building or estate.
- b) **Arrangements for the programme.** A leaseholder requested to know the outcomes on which the Council's Decent Homes programme would depend. The response was that it would be decided by the outcome of an inspection by the Audit Commission in May 2007 regarding the services provided by Homes for Haringey and of government decisions with regard to funding.
- c) **Absence of leaseholders' right to nominate a contractor.** It was suggested that there was an inconsistency in the fact that leaseholders were not allowed to nominate a contractor whilst at the same time they were given the right to submit observations on the landlord's plans. In reply Homes for Haringey pointed out that these were the requirements contained in the Regulations.

- d) **Building and estate works.** A query was raised as to why reference was made in the notices to both the building and the estate. Homes for Haringey responded that it was possible for work to be carried out either to the building or to the estate (or both) as part of the proposed programme of works. If work was undertaken to the building then the cost would be apportioned over the number of flats it contained. However if the work was carried out to an estate area (for instance a playground, a path, etc) then its cost would be apportioned over all the residential properties in the estate. Both calculations would be carried out in accordance with the requirements of the lease.
- e) **Position of a recognised residents' association.** A leaseholder questioned the meaning of the statement (in the *Explanatory Notes*) "Before work begins, we must send a Notice of Intention to all leaseholders who will have to pay towards it, and to their Recognised Tenants' Association (if there is one)." Homes for Haringey responded that it referred to the fact that if there was a tenants' association which had been recognised with regard to section 20 consultation (under the Landlord and Tenant Act 1985) then it had to be sent a copy of the notice, as well as the leaseholders who were affected by the proposal. It was explained that it did not mean (as the leaseholder had suggested) that leaseholders would have to pay towards their recognised tenants' association, if there was one.
- f) **Maintenance responsibilities.** The question was asked as to how maintenance responsibilities were divided between the leaseholder and the landlord. Homes for Haringey responded that the leaseholder is responsible for all the fixtures and fittings inside their flat, all internal decoration, electrical wiring, plumbing and so on. They are also responsible for the internal doors, window glass (but not the windows), plasterwork, floor boards, tiles etc.

The landlord is responsible for the exterior and the structure of the building, including the joists, brickwork, window frames, exterior doors, roofs and so on. The landlord is also responsible for the communal areas and all aspects of estate maintenance, including paths, grounds, play areas, lighting, etc. Under the terms of the lease the leaseholder is responsible for paying the Council (as the landlord) a due proportion of the cost of all the work it undertakes in relation to the building and the estate.

- g) **Consultation period.** The suggestion was made that Homes for Haringey had not observed the consultation period of 30 days in relation to the notices. HfH responded that there had been no failure on its part in this regard. The Statutory Instrument (2003, No 1987) states that the period of consultation "means the period of 30 days beginning with the date of the notice".
- h) **Address of notice.** It was observed that an address was not shown on the notice. Homes for Haringey stated that this was not a valid objection since the address of Homes for Haringey had been included in the heading of the covering letter.
- i) **Alleged duplication.** It was claimed that there had been unnecessary repetition in the notices, which had resulted in them being less clear than they should have been. An example of this was given as having occurred under the heading *Description of the agreement* (in the notice with respect to the proposed appointment of consultants). The notice included a list of the types of services with respect to which leaseholders would have to pay a proportion of the cost where work was carried out to their property. This list included the following items, numbered in the notice as follows:
- (ii) Verification of the programme of works annually within each contract Area.
 - (vii) Monitor the progress of the works on site.
 - (viii) Ensure that the constructors undertake the works in accordance with the contract requirements.

It was suggested that these items all referred to the same issue and therefore constituted an unnecessary duplication. Homes for Haringey explained that the consultants would oversee various aspects of the work to be carried out by the main contractors (constructor partners). With regard to item (ii), each constructor partner would be responsible for a number of different projects at different locations as a part of each programme. Thus it was concerned with the verification of the overall planning process. However with regard to items (vii) and (viii), monitoring progress on site was different to ensuring adherence to contract specifications, since the latter could be achieved without the former.

- j) **Finalisation of accounts.** A query was raised as to when the finalisation of accounts would occur in respect of completed projects - this referred to a matter contained in the notice concerning the compliance team which referred to the undertaking of monthly valuations and the issuing of certificates for payment. Homes for Haringey replied that it was proposed that the issue of the accounts/invoices to leaseholders would take place fairly soon after the completion of work. It also stated that the timely submission of the

necessary information for the issue of invoices would be stipulated as a contract provision in the long term agreements.

- k) **Council Tax.** A leaseholder wanted to know what services in their estate were covered by the Council Tax. Homes for Haringey responded that with regard to the services paid for by the Council Tax, the housing estate in which a leaseholder's property is situated is legally in much the same position as private land held by other landowners in the borough. The facilities on a housing estate are provided to serve the people living within its boundaries. This type of estate is owned by the Council in its role as a registered social landlord.

It was explained that the Council Tax covers the council services which are provided to all householders in the borough, such as social services, education, library services, local authority parks, refuse collection, maintenance of main roads and so on. Comprehensive details of these services can be found on the Council's website: www.haringey.gov.uk. A substantial part of the cost of the Council's borough wide services is met out of general taxation from central government. It was explained that the Council is legally prevented from subsidising its housing expenditure from any money not specifically allocated for this purpose.

- l) **Tenants and leaseholders.** It was suggested that tenants were benefiting from the service charges paid by leaseholders. Homes for Haringey explained that leaseholders are only paying their proportion of the costs of housing services. A leaseholder's service charges are calculated on the basis of the number of properties in the building divided into the total costs. The calculation also takes into account the size of the property owned by the leaseholder. Moreover the position of the tenant is not comparable to that of the leaseholder since the tenant does not own any part of their property.

All expenditures on the upkeep of the building and the estate tend to enhance the values of individual properties so that the leaseholder derives a financial benefit from work undertaken by the landlord. It was explained that it was therefore appropriate that the leaseholder should make a reasonable contribution towards the cost of the work undertaken and this requirement is of course included in the lease.

- m) **Consultation and regard to observations.** A leaseholder questioned whether leaseholders could have any input into council decisions. Homes for Haringey responded that the landlord is legally obliged to have regard to any observations made by a leaseholder in response to a notice. In addition legislation requires that costs rechargeable to the leaseholder must be reasonably incurred and that the work must be to a reasonable standard. Furthermore Homes for Haringey has set up a system of consultation using panels and forums which are open to all

residents to attend. These meet on a regular basis to ensure that leaseholders and tenants are involved in the day to day decision making processes.

- n) **Economies of scale.** A leaseholder queried the meaning of the phrase "economies of scale" in the explanatory notes on partnering that accompanied the notices. It can be explained in relation to the cost savings large organisations make from the use of specialisation and the division of labour. An example of this was given as being where large contractors are employed on big schemes. They have departments employing specialist expertise and are very experienced in making the arrangements for large contracts, the efficient deliveries of materials in bulk, the use of sophisticated equipment and machinery, and so on. Although setting up the organisation needed to deal with such work is expensive, it gives the contractor much greater efficiency, where a large amount of work is being undertaken.
- o) **Guaranteed demand.** A leaseholder asked for an explanation of the term "guaranteed demand" (which was used in the notes on partnering enclosed with the notices). Homes for Haringey responded that this was in relation to the companies forming the supply chains to provide the materials, components, etc required in the undertaking of the works. The proposed arrangements would minimise delays and thus reduce costs. The potential cost savings would not just be theoretical but were based on the experience of other local authorities which had employed similar policies.
- p) **Arms Length Management Organisation (ALMO).** A leaseholder asked the meaning of this term, with particular reference to Homes for Haringey. In response it was explained that HfH is a separate company wholly owned by Haringey Council. It is responsible for the provision and management of the housing services to the building and estate (in which the leaseholder's property is situated). Its responsibilities include the undertaking of all work, the calculation and collection of rents and service charges and so on. Essentially it is the Council's managing agent. The Council owns the properties in its statutory role as a registered social landlord.
- q) **European Community funding.** The question was put as to whether funding for the Decent Homes programme was to be provided by the European Community. Homes for Haringey responded that it was not anticipated that any funding in relation to these works would be received from the EC. However under the terms of the lease and the provisions of statute, the liability of leaseholders to pay a proportion of the cost of work relating to their property does not depend on the source of funding, except in a very few cases which have been specified by Parliament.

This position was recently confirmed by His Honour District Judge Cooke in *London Borough of Haringey v Ball and others (CHY03130)*.

- r) **Right to nominate.** The question was raised as to why the notices had not given leaseholders the right to nominate a contractor. It was explained that the Regulations did not give leaseholders the right to submit nominations in the case of these proposed contracts since they had to be put out to public tender under the rules of the European Union. These rules require that all very large contracts must be tendered via a public notice in the official journal of the EU.
- s) **Preparation and planning of the programme.** A leaseholder asked why only some leaseholders should have to pay the costs involved in the preparation and planning of the programme of works, the undertaking of surveys and so on. Homes for Haringey responded that this was because leaseholders would only have to pay a proportion of the costs in relation to work carried out to their building or estate. It was explained that it would not be fair or legally permissible for the landlord to make any charge to a leaseholder unless it was concerned with carrying out work or services in relation to their property.
- t) **Planning supervision.** This term was contained in the notice relating to the proposed appointment of the consultants. A leaseholder made the observation that the planning of the work should not be a function of a contractor but should be entirely the responsibility of the Council. Homes for Haringey stated that it would be responsible on behalf of the Council for all major planning decisions. However it was the case with all large programmes of works that a great deal of planning was required at every level concerning the details of implementation.

Hence it was inevitable that the main contractor (constructor partner) would have to bear some of the responsibility for the particulars involved in the planning of the detailed arrangements for the work. It was explained that it is normal practice for the day to day oversight of these matters to be assigned to a firm of consultants. The consultants would also be responsible for the preparation of health and safety plans, etc.

The Council (through Homes for Haringey) would still have overall responsibility and control as in the case of any work carried out to the building or the estate. The appointment of a large firm (or firms) of consultants and constructor partner(s) would simplify the process with respect to the commissioning of works. It would avoid the necessity for the tendering of many individual projects and thus significantly reduce the administration and paperwork involved.