

# Delegated Decisions report



1 December 2020

## THE FUTURE OF MELLISH COURT AND THE GABLES

Name of Cabinet Member	<b>Councillor Emily Darlington</b> (Cabinet member for Public Realm and Housing Services)
Report sponsor	<b>Michael Kelleher</b> (Director - Housing and Regeneration)
Report author	<b>Stephen Young</b> Head of Asset Management T: 01908 252272

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Wards affected	<b>Wolverton &amp; Bletchley</b>

### Executive Summary

Mellish Court is an 18-storey tower block built in 1965, comprising 136 flats. The Gables is a nine-storey block built in the 1960's, comprising 59 flats. In 2016, fire safety works took place in both blocks as part of our repairs and maintenance programme. In 2017, fire risk assessments were undertaken which included non-intrusive surveys. Following the Grenfell Tower fire in June 2017 and the concerns about Aluminium Cladding Material (ACM), YourMK commissioned structural, mechanical and electrical intrusive surveys of both buildings; it was concluded that there were no ACM materials at either tower block, and highlighted areas for investment which the Council programmed for 2019/20 and 2020/21.

Following a small fire at the Gables in June 2019, the Council commissioned its structural engineering specialists, RPS Group, to carry out further intrusive surveys of both buildings. These surveys identified compartmentation issues at both blocks and concluded that neither block meets current health and safety standards. As a

priority, mitigating measures have been put in place in partnership with Buckinghamshire Fire and Rescue Services, to ensure the safety of residents. This includes upgrades to smoke/heat detectors and fire doors, evacuation plans and procedures, a 24/7 warden patrol service, increased presence of caretakers and housing officers and a decant plan. Extensive engagement is ongoing with residents to ensure they have every opportunity to ask questions or raise concerns.

The Council must consider whether it should invest in the refurbishment of the blocks or rebuild them. Refurbishing the buildings up to the required modern standards would require significant investment and may not be possible given the introduction of the new, tougher building safety regulations. RPS has costed the refurbishment works and these have been reconciled by cost consultants Gleeds. The estimated total investment required across both blocks to refurbish is £52.265m, incorporating not only fire related upgrades but also major component replacements throughout the entire buildings. These costs are indicative only and do not include decant and rehousing costs or the cost of the Council's offers to residents (attached at **Annex C** to the report), nor do they include borrowing costs.

If the Council was to rebuild the buildings, it could use the cleared sites to provide new council housing. Work is being undertaken to develop a fully costed development programme, taking into account the best use of land in the close proximity to the towers. This option would enable the Council to design a purpose-built development that meets all relevant standards, offers a wider mix of units to meet housing need and provides for better accessibility. Early indications suggest that two schemes could be constructed at an approximate cost of £60 million, including the demolition of both towers but again, costs do not include borrowing costs.

A third option which should be considered is site disposal to the open market. Lambert Smith Hampton (LSH) have been instructed to provide site valuations, one of the land assuming it is cleared and suitable for use as housing land, and one of the land with the towers empty but remaining on site and fully refurbished. Time restrictions mean that these valuations are not included in this report but will be presented verbally at the meeting.

A decision to refurbish the blocks would see the costs of the work met entirely from the Housing Revenue Account (HRA). The works would need to be prioritised over other investment options and this would impact the Council's investment programme. The cost of the new build options would also be met from the HRA and impact the Council's investment programme but could be reduced by an application for Homes England grant or use of 141 replacement funding (although given the limited amount of receipts available, this could impact the viability of other housing development schemes). These impacts will be considered in more detail as part of the report on the HRA Business Plan being considered at Cabinet on 2 February 2021.

The extent of the issues identified with both buildings means that residents will need to be rehoused, either to allow the refurbishment works to take place or because of a decision to demolish the buildings. The offer and level of assistance given will be dependent upon tenure, i.e. whether they are a council tenant, resident leaseholder, non-resident leaseholder or a tenant of a non-resident landlord. It is anticipated that both blocks will be decanted within 12 months.

An eight-week consultation on whether the Council should refurbish or rebuild the blocks will commence on 14 December 2020. For council tenants this is a statutory consultation under section 105 of the Housing Act 1985. Whilst there is no statutory requirement to consult leaseholders and private tenants on this matter, the Council will extend the consultation to them. If it is decided, having taken consultation responses into account, to demolish and build new council homes on the site, we will invite current residents to engage with us on developing the proposals.

## 1. Decisions to be Made

- 1.1 That the Council's preferred option is to rebuild both buildings.
- 1.2 That statutory s105 consultation with tenants of Mellish Court and The Gables commence on 14 December 2020 for eight weeks on whether the Council should rebuild or refurbish the buildings with demolition being the preferred.
- 1.3 That resident and non-resident leaseholders and the private tenants of the non-resident leaseholders of both buildings be consulted on the same terms as the statutory s105 consultation for the same time period.
- 1.4 That a process of decanting the buildings begin subject to the Council's offer to residents at **Annex C**.
- 1.5 That any Council tenant who has moved out of Mellish Court or The Gables since 3 September 2020 be eligible for home loss and disturbance payments as set out in **Annex C**.
- 1.6 That resident leaseholders are consulted on working up the terms of a shared equity offer as proposed in **Annex C**.
- 1.7 That, to enable the Council to buy back the leasehold properties in accordance with the offer to leaseholders in **Annex C**, subject to consultation on the shared equity offer, authority be delegated to the Director - Housing and Regeneration to enter into negotiations with and agree details of purchase with leaseholders.
- 1.8 That all responses to the consultation be reviewed and given due consideration before a final recommendation is made.

1.9 That a Delegated Decision report be considered on 2 March 2021 following the consultations, recommending a decision on the future of Mellish Court and The Gables.

## 2. Why is the Decision Needed?

2.1 Mellish Court is an 18-storey tower block built in 1965. It comprises 136 flats of which 98 are tenanted, 28 are leasehold and 11 are currently empty. The Gables is a nine-storey block also built in the 1960's. It comprises 59 flats of which 44 are tenanted, 4 are leasehold and 11 are currently empty.

2.2 During 2016, numerous repairs and day to day maintenance works were undertaken across both buildings which included fire safety related works such as door replacements and repairs, electrical testing and alarm upgrades. YourMK commissioned a series of Fire Risk Assessments (FRA) across the council's housing stock in 2017. Works began before Grenfell Tower and continued after the tragic events in June 2017, at which time additional surveys were commissioned of both Mellish Court and The Gables to assess the structural integrity of the buildings, the mechanical and electrical installations (e.g. lifts) and to report on the presence, or otherwise, of Aluminium Composite Material (ACM). The results of the FRAs and the structural surveys indicated no concerns relating to ACM but did highlight the need for certain remedial works, including improvements to partition walls, fire doors, lighting, and communal areas, which were undertaken throughout 2017/18 and 2018/19. Additional works to ventilation systems, lifts and electrical aspects were programmed for 2019/20 and 2020/21 and included extensive works to the balconies at Mellish Court.

2.3 Following a small fire at the Gables in June 2019 the Council commissioned RPS Group to carry out a revised Fire Strategy for both blocks. This required a specialist fire engineer to survey both blocks to provide initial observations and recommendations, which were followed up with further intrusive surveys of both buildings. This included inspections in communal areas but also required gaining access to empty flats to open up a sample of properties to understand the construction and fabric of the blocks. Once all surveys were undertaken and reports supplied, the information was collated and analysed, and a final report issued in September 2020 that identified compartmentation issues at both blocks. As a result, it is now clear that the buildings do not meet current health and safety standards with significant investment needed to bring them up to the required standards. In the meantime, mitigation measures have been put in place to ensure the safety of residents as the future of the buildings is considered.

2.4 We are addressing and continuing to mitigate risks in partnership with Buckinghamshire Fire and Rescue Services and our residents. The following steps have been taken:

- Installing and upgrading smoke/heat detectors in each flat.
- Upgrading communal and individual flat fire doors .
- Securing empty properties when they become void.
- Instructed a simultaneous evacuation procedure.
- Developed a Personal Emergency Evacuation Plan (PEEPs) as necessary.
- Increased Anti-Social Behaviour and Neighbourhood team presence.
- Attended each block and hand delivered/posted key communications to residents.
- Set up email addresses for each block for questions and communication.
- Written to all residents and invited all to a forum.
- Initiated a 24/7 Warden Patrol service at both blocks.
- Increased Caretaking attendance to both blocks 7 days a week.
- Formulated a decant plan for both blocks that covers residents' needs.

2.5 RPS has identified and costed the refurbishment works needed to bring these buildings up to the required modern standard and these costs have been reconciled by cost consultants Gleeds. The estimated total investment needed across both blocks to refurbish is £52.265m. The refurbishment incorporates not only fire related upgrades but also major component replacements throughout the entire buildings e.g. replacement of kitchens, bathrooms, lifts, walls, and heating systems. The detailed cost estimates are shown at **Annex A** (Mellish Court) and **Annex B** (The Gables), a summary of which is shown in Table 1. It should be noted that at this stage these costs are indicative estimates only and do not include for decant and rehousing costs and Council offers nor include borrowing costs.

**Table 1** - Summary of Refurbishment Cost Estimates - Mellish Court and The Gables

<b>Refurbishment works</b>	<b>Mellish Court</b>	<b>The Gables</b>
Alterations / Adaptations	£12,241,000	£6,031,000
Fitting-Out Works (incl M&E Services)	£18,983,000	£4,002,000
Ext Works / Utilities / Diversions	£1,480,000	£830,000
Preliminaries (phasing, programme)	£2,852,000	£1,739,000
Main Contractor's OHP	£1,640,000	£945,000
Professional Fees	£3,525,000	£2,032,000
Contingencies	£2,703,000	£1,558,000
Inflation	£2,973,000	£1,714,000
Carbon Offset Payment	£500,000	£210,000
<b>Total Construction Cost</b>	<b>£33,204,000</b>	<b>£19,061,000</b>

- 2.6 To “do nothing” is not an option. The Council, therefore, needs to consider whether it should invest in the refurbishment of the blocks or demolish and rebuild them. With the introduction of the new national Building Safety Regulator (to be operated by the Health and Safety Executive) and anticipated new and tougher regulations, it is unclear whether stripping back the buildings and refurbishing them will bring them up to the required standard. In addition, the buildings are over 50 years old and it needs to be noted that with a full refurbishment, the underlying super structure will not have the life expectancy of new buildings.
- 2.7 With the publication of the Hackitt Review and the draft Building Safety Bill, published in July 2020, it is clear that any existing or proposed new high-rise building are likely to have further resource and financial implications on the Council. Whilst supportive of these new proposed regulations, they also provide further intelligence to help the Council make its recommendation on whether to refurbish the existing buildings or potentially build new high-rise buildings. The new recommendations will increase both the revenue costs and the capital expenditure in either maintaining the existing buildings or constructing new high-rise towers. The Council is therefore exploring what could be delivered if it was to construct new homes in blocks under 18m tall.
- 2.8 If the Council was to demolish the buildings, it could use the cleared sites to provide new council housing. Work is currently being undertaken to develop a fully costed development programme, taking into account the best use of land in the close proximity to the towers. Early indications suggest two schemes could be constructed in the region of £60 million, including the demolition of both towers and a replacement of a similar number of homes. We will continue to work on these schemes and consult and engage throughout the development of these options.

**Table 2** - Summary of New Build Indicative Cost for Mellish Court and The Gables

	<b>Mellish Court and The Gables</b>
Demolition	£2,000,000
Site Clearance	£1,000,000
Site works	£6,000,000
Construction costs	£26,000,000
Preliminaries	£6,000,000
Contractors OH&P	£2,000,000
Inflation	£5,000,000
Professional Fees/ Surveys	£6,000,000
Client Contingency	£6,000,000
	<b>£60,000,000</b>

- 2.9 With the early indicative demolition and rebuild costs being in the region of £60 million, and potential refurbishment costs being in the region of £52 million (excluding costs of borrowing), it would suggest that the rebuild options should be the preferred route. Demolishing both buildings and constructing new homes would ensure that that we are not spending on buildings that we already know to have a restricted life, with the refurbishment taking place around the existing concrete frames. It will also allow for the Council to design a new purpose-built development that meets all relevant standards and provides for better accessibility. The development of new schemes may also allow for a wider mix of units to be delivered when assessing the relevant housing need.
- 2.10 Whilst the options of either refurbishing or demolishing and re-building some alternative level of provision across both sites are being explored, it would be prudent to consider a wider options appraisal for both sites at the same time. Site disposal to the open market should therefore also be considered to help ensure a more informed decision is taken. We have therefore instructed Lambert Smith Hampton (LSH) to provide the relevant site valuations. We have also requested LSH provides us with a valuation of the leasehold flats to inform any relevant offer we make to the leaseholders. Due to timescales, these valuations cannot be included within this report, but the intention is for these to be presented verbally at the meeting. For information, the following instructions have been provided to LSH:
- (a) A valuation of the land assuming it is cleared and suitable for use as housing land - see comments on densities at 2.11.
  - (b) A valuation of the land with the towers empty but remaining on site - assuming refurbished.

- (c) Valuations of each of the leasehold flats. The special assumptions are that the flats are in good condition, are free from planning blight and there are no issues with the length of the leasehold. These valuations are to follow.
- 2.11 With regards to (a) above, two valuations have been requested:
- (a) A valuation assuming a 'like for like' replacement of the tower block - 18 floors (no flats on ground floor), 136 flats, 8 flats per floor (4 x 1 beds, 4 x 2 beds).
- (b) A valuation assuming a block of 5 floors, 8 flats per floor (4 x 1 beds, 4 x 2 beds).
- 2.12 LSH have advised that the value of the tower blocks is impacted by the outstanding remedial works. LSH have been advised that the buildings are compliant, but that due to the age of the buildings and the fact that they have a number of shafts running through them serving heating and refuse systems, they no longer meet new regulations. Improvements are now required. However, to do this we would need to strip the blocks back to their superstructure and essentially start again.
- 2.13 The valuation should be carried out under the assumption that the blocks are in a fully refurbished condition, compliant with current fire regulations and are fit for purpose.
- 2.14 If a decision is made to refurbish the blocks, the estimated costs of the work would have to be met entirely from the Housing Revenue Account (HRA). This would impact on the Council's investment programme as the cost of these works would need to be prioritised over other investment options. The cost of the new build options would also be met from the HRA but could be offset by 141 replacement funding or Homes England Grant, but availability of 141 resources is scarce and use of this could impact on other schemes. A decision to build new homes on the sites would also impact the investment programme as it would reduce funding available for other projects. These impacts will be considered in more detail as part of the report on the HRA Business Plan being considered at Cabinet on 2 February 2021.
- 2.15 As set out above, the cost of the works required to address the health and safety issues are significant and would have a major impact on the position of the Housing Revenue Account. In light of the information set out at paragraphs 2.5 to 2.14 it is recommended that the preferred option is to demolish and rebuild both buildings. This is because:
- There are significant health and safety issues in both blocks, which need to be addressed to make the blocks safe in the long- term.

- There is no guarantee that refurbishing the buildings will meet the standards set by the new building safety regulator.
- A refurbished building will have a limited life span given the age of the super structure.
- It would mean that investment in other Council homes and estates, including its regeneration priorities, would need to be reprofiled and in some cases delayed.

### 3. Resident Engagement and Consultation

#### Engagement

- 3.1 Since the issues with the blocks first came to light in September 2020, the Council has engaged extensively with residents.
- 3.2 Residents of both blocks have been visited and leafleted, and non-resident landlords have been written to. In addition, we have held separate Teams meetings with the residents and non-resident leaseholders of both buildings which have been attended by the Cabinet Member, ward councillors, Orbis and Council officers. These meetings allowed the Council and Orbis to update residents on the current mitigation works and the future options and to answer any questions they had. The notes of these meetings have been shared with all residents, and non-resident leaseholders of both buildings.
- 3.3 We will continue to engage with residents in an open and transparent way and will be hosting similar events in the new year. This will be supported by a dedicated engagement resource who will work alongside the dedicated housing officers for both buildings. If it is decided, having taken consultation responses into account, to demolish and build new council homes on the site, we will invite current residents to engage with us on developing the proposals.

#### Consultations

- 3.4 Subject to approval, consultation will be carried out with residents (including non-resident leaseholders) of both blocks on the future of the blocks.
- 3.5 The consultation on whether the Council should refurbish or rebuild Mellish Court and The Gables - with its preferred option being identified in the consultation material - is (in the case of secure tenants) a statutory consultation under section 105 of the Housing Act 1985. This places a legal obligation on local housing authorities to consult with secure tenants on “matters of housing management” which are likely to significantly affect them, such as changes to the management, maintenance, improvement or demolition of properties let by them or the provision of services in connection with those properties. Whilst there is no statutory requirement to consult

leaseholders and private tenants on this matter, the Council will extend the consultation to them.

3.6 In order to ensure that all affected residents are able to access the consultations, the following methods will be used:

- A letter/information pack will be sent to all residents in Mellish Court and The Gables, and will be made available in other languages, large print and Braille on request (unless the Council is already aware that a resident needs it in one of these formats).
- The information will be provided on a dedicated page on the Council's website.
- At least one virtual meeting/drop-in event will be held for each block (this will be in addition to the follow-up residents' meetings outlined at paragraph 3.3).

3.7 In order to ensure that tenants can make their views known on the proposal, the following feedback methods will be used:

- A feedback form and a freepost envelope within which to return it.
- A dedicated email address.
- A telephone number.

3.8 As set out above, in the section 105 consultation the Council will set out its preferred option in the consultation. The consultation materials will set out why this is the preferred options whilst keeping an open mind and taking consultation responses into consideration in due course.

3.9 The proposed period for each consultation will be eight weeks. Officers have considered whether a longer period should be allowed for consultation but have decided that the health and safety concerns mean that a decision should be made as soon as possible. Officers are satisfied that this is sufficient time for a fair and proper consultation, particularly bearing in mind the relatively small number of potential consultees in each case. Furthermore, the Council has already carried out engagement with the residents of the blocks to date and will continue to do so throughout this process. Residents will be informed at the earliest opportunity about the forthcoming consultation, before it formally commences following Cabinet member approval.

## 4. Rehousing

- 4.1 The extent of the issues identified with Mellish Court and The Gables as set out in this report mean that residents will need to be rehoused from these blocks, either to allow the refurbishment works to take place or because of a decision to demolish and rebuild the buildings.
- 4.2 The offer and level of assistance that residents will be given in finding and securing alternative housing is dependent upon their current tenure (i.e. whether they are a council tenant, resident leaseholder, non-resident leaseholder or a tenant of a non-resident landlord). The Council's proposed offer to each group is set out in more detail in **Annex C**.
- 4.3 The Housing Access Team is currently registering all households in readiness to move to alternative housing. It will take time to work through the number of applications and there is a concentrated effort to ensure we capture all information and details to support individual needs. The buildings have been assigned four dedicated officers from the Housing Access Team to receive and register applications and provide housing advice and support throughout this process. We are currently working on the assumption that both blocks will be decanted within 12 months.

## 5. Implications of the Decision

Financial	Yes	Human rights, equalities, diversity	Yes
Legal	Yes	Policies or Council Plan	No
Communication	No	Procurement	No
Energy Efficiency	No	Workforce	No

### Financial Implications

- 5.1 The report proposes consultation on the future of the tower blocks. The costs of consultation will be met from within existing budgets.
- 5.2 Pending decisions and delivery on the future of the blocks, revenue costs are being incurred in the short term on the 24/7 wardens and other unavoidable expenses, such as rent loss, home loss and disturbance payments, stripping out vacant flats to reduce flammable content, and additional staffing. Table 3 includes an estimate of the unbudgeted costs.

**Table 3** - Estimate of Unbudgeted Revenue Costs

Forecast Variance	2020/21	2021/22
Housing Revenue Account	£2.019m	£2.472m
General Fund	£0.104m	£0.775m

- 5.3 The 2020/21 costs are being incorporated into the budget monitoring process, and 2021/22 costs will be provided for within the draft revenue budget.
- 5.4 In the short term, fire safety capital works will continue to be met from the existing capital budgets. Current projections indicate the cost of this will be in the region of £1,673k for 2020/21 and 2021/22.
- 5.5 Capital costs for the future of the tower blocks will, once decisions have been made on the option(s), be incorporated into the Capital Programme. Since the buy-back of leaseholder properties will be required under all options other than the rejected “no change” option, capital resource allocation and spend approval for the anticipated costs (£2.921m for statutory costs). The budget for this will be sought immediately through the 2021/22 budget report to be proposed for approval by Delegated Decision on 22 December.
- 5.6 The Council is also exploring the development of an equity share offer for resident leaseholders and will engage and consult with resident leaseholders on this, however, at this stage no additional costs have been included for this element as further work on a potential scheme is required.
- 5.7 The Council is in the process of producing a full options appraisal for both sites. Based on the initial work undertaken, the preferred option is to rebuild both buildings. This will be confirmed following consultation and completion of the full options appraisal. The estimated capital costs set out in the body of the report for demolition and refurbishment and/or replacement of the tower block homes are of necessity preliminary and will be significantly refined before a decision is sought on the preferred option. There will also be costs of borrowing associated with the investment, resulting in a larger cost to the HRA than outlined earlier in this report. The affordability, value for money and risk profile of the options will be covered in the report seeking a decision.

#### Legal Implications

- 5.8 A consultation under Section 105 Housing Act 1985 is required wherever secure tenants are likely to be substantially affected by a matter of housing management. The purpose of the consultation is to:
- (a) inform the tenant of the authority’s proposals; and
  - (b) to allow the tenant to make their views known to the authority.
- 5.9 It is also proposed to undertake a non-statutory consultation of the leaseholders. Whether or not there is in law an obligation to consult, where consultation is embarked upon it must be carried out *fairly*.

- 5.10 It is commonly accepted that certain fundamental propositions must be adhered to when carrying out a consultation. These propositions are known as the *Gunning* (or *Sedley*) principles. The *Gunning* principles are that:
- (i) consultation must take place when the proposal is still at a formative stage;
  - (ii) sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response;
  - (iii) adequate time must be given for consideration and response; and
  - (iv) the product of consultation must be conscientiously taken into account.
- 5.11 The obvious point of *Gunning* principle (i) is that the decision-maker cannot consult on a decision that it has already made. A decision-maker can present a 'preferred option' in the consultation document, so long as its mind is genuinely ajar and provided it is clear what the other options are.
- 5.12 *Gunning* principle (i) does not mean that the decision-maker has to consult on all possible options of achieving a particular objective, even options which have at some point been 'developed, crystallised, canvassed and considered'.
- 5.13 In terms of the weight to be afforded to the consultation responses, this is a matter for the decision-maker but as indicated above, there is a requirement that "the product of consultation must be conscientiously taken into account". This is good practice for both statutory and non-statutory consultations.

## 6. Alternatives

- 6.1 As set out at paragraph 2.5 "Do Nothing" is not an option.
- 6.2 However, there are several options available to the Council at both sites:
- (a) **Option 1**  
Demolish the existing tower blocks and seek planning permission for replacement blocks on the same footprint and density with a view to retaining the asset.
  - (b) **Option 2**  
Demolish the existing tower blocks and seek planning permission for a lower density development with a view to retaining the asset.
  - (c) **Option 3**  
Demolish the existing tower blocks and dispose of a cleared site with residential planning permission.

(d) **Option 4**

Strip back the existing tower blocks to the superstructure and carry out a full refurbishment.

- 6.3 Option 1 would appear to offer the Council the best solution in terms of the maximum number of residential units, although the build costs for high rise blocks over 10 floors are extremely expensive. The Council already owns the land and so has an advantage over a commercial developer and this fact may be the deciding factor to determine the viability of a scheme.
- 6.4 Option 2 offering lower density accommodation is also a workable solution. A lower density scheme may not make the most of the site's value but would offer an enhanced residential offering. Consideration should be given to whether there is the opportunity to increase the land available at either site.
- 6.5 Option 3 would appeal to developers and would generate a financial return to the Council but not assist with housing need and there would be a loss of social housing which would need to be replaced. It is likely that the Council would have to purchase land to deliver new housing and so this option is unlikely to meet any 'best consideration' tests.
- 6.6 Option 4 should probably be discounted as strip back and refurbishment costs are likely to exceed the freehold value of the building, rendering the project unviable.
- 6.7 All options would need to be reviewed to ensure they are feasible and offer value for money. Valuations have been procured for the options detailed above to enable further discussions and decision making.

## 7. Timetable for Implementation

- 7.1 Resident consultation (8 weeks) - 14 December 2020 to 8 February 2021.
- 7.2 Final Decision on future of the blocks - 2 March 2021.
- 7.3 Full decant of blocks by October 2021.
- 7.4 New build or refurbishment works - January 2022 to December 2024.

## List of Annexes

- Annex A** Refurbishment cost estimates for Mellish Court
- Annex B** Refurbishment cost estimates for The Gables
- Annex C** Housing offer to tenants and leaseholders of Mellish Court and The Gables