

Trinity Court N1 5TH - Assignment of Decant Status**Non Key Decision - CE S045****CABINET MEETING DATE
(2021/2022)**

14 March 2022

CLASSIFICATION:

Open

WARD(S) AFFECTED

De Beauvoir

CABINET MEMBER

Councillor Guy Nicholson, Deputy Mayor for housing supply, planning, culture and inclusive economy

KEY DECISION

No

REASON

This report is not a key decision as it only affects one ward and does not have a significant impact on spending or saving.

GROUP DIRECTOR

Ajman Ali, Group Director for Neighbourhoods and Housing

1. CABINET MEMBER'S INTRODUCTION

- 1.1. Hackney's Council housing provides a safe, stable and affordable place to live for more than 20,000 families in the borough. As the demand for homes has grown and house prices and private sector rents have increased, the availability of Council homes has become more important than ever.
- 1.2. Hackney Council, since 2011 has led on its pioneering, not-for-profit approach to building new homes. This approach has directly delivered more than 1,400 new homes in the borough. More than half the homes built are for social rent, shared ownership or for Hackney Living Rent, and the rest are sold outright to help pay for them – a model now followed by other Councils across London and the UK.
- 1.3. Hackney's priority is to deliver affordable new Council housing without impacting on existing residents and their homes. The focus of the most recent Council led house building programme has included the repurposing of underused Council-owned land such as empty garages and underused car parks. Where existing homes are unsafe or unable to be repaired or are no longer meeting the housing needs of the community then it is vital that all residents whose home is proposed to be demolished on a Council estate to enable the new homes to be built, has the right to a binding ballot to vote on the proposals.
- 1.4. In the De Beauvoir Estate, the Council is making the most of the opportunities to build new homes on underused land and has been developing plans with residents for more than 300 new homes in two phases – more than half of which would be affordable. The Council is also undertaking a number of estate wide regeneration initiatives that are focussed on improvements to some existing homes, better public spaces and new affordable workspace. In the second phase, plans are being developed for the building of new Council homes and a new neighbourhood office facility on the sites that include the existing Queensbridge and De Beauvoir neighbourhood housing office.
- 1.5. Trinity Court sits within the second phase and is currently home to six households and five commercial units. In the summer of 2021 the Council, working to its commitment to ballot residents directly affected, began the process of balloting the residents of Trinity Court on the proposals. The response was unequivocal, showing a clear majority of residents in favour of the redevelopment proposals.
- 1.6. As the resident backed ambitious development and landscaping plans progress for the De Beauvoir Estate it will include Trinity Court and will also enable the Council tenants living there to move, if they so wish, directly to a purpose-built, high-quality new Council home on the estate.
- 1.7. I commend this report to Cabinet.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 In February 2016 Cabinet authorised the delivery of the Housing Supply Programme (HSP) to provide around 400 new mixed tenure homes on previously developed land within existing council housing estates (February 2016 Cabinet approval - key decision no: HS K57).
- 2.2 Cabinet subsequently approved an update of the Regeneration Strategy in April 2019, which set out a revised delivery plan aiming to develop 600 homes across 14 sites. The Cabinet paper included a second phase of development on the De Beauvoir Estate.
- 2.3 The Housing Supply Programme is based upon the delivery of mixed tenure developments. It is intended that the programme is self-funding.
- 2.4 The Trinity Court resident ballot was conducted with Cabinet authority (NH Q88, July 2020) and fulfilled a policy commitment in the Mayor's 2018 Manifesto. The majority of eligible residents voted in favour of the redevelopment proposals.
- 2.5 The granting of decant status to Trinity Court residents and serving the Initial Demolition Notice will enable the redevelopment project to proceed, to meet Hackney's affordable housing programme commitments.
- 2.6 This report seeks Cabinet authority to assign decant status to Trinity Court households, to place an Initial Demolition Notice on the block and to place a Final Demolition Notice on the block in the event of planning consent being granted for the redevelopment proposal.

3. RECOMMENDATION(S)

Cabinet is recommended to:

- 3.1. Award decant status to all secure tenants living at Trinity Court, as shown in the plan at Appendix 1, and to start the decant process for those residents.**
- 3.2 Agree to serve and publish an Initial Demolition Notice for Trinity Court and to publish and serve a Final Demolition Notice in the event of securing planning consent for the redevelopment proposals.**
- 3.3 Authorise the preparation and service of any necessary legal and ancillary documentation required to secure possession of the residential dwellings and business units at Trinity Court in accordance with Schedule 2 of the Housing Act 1985 and Section S30(1) of the Landlord and Tenant Act 1954.**

3.4 Authorise the Director, Regeneration and the Director of Legal & Governance to deal with all necessary arrangements to enable the serving and publication of the Notices set out in this report and to complete the resident decant and demolition process.

4. REASONS FOR DECISION

- 4.1 Trinity Court comprises six maisonette flats and five business units (two of which have been knocked into one), as shown in the plan at Appendix 1. One maisonette has recently been bought back from the leaseholder, returning it to council ownership. The remaining five households are Hackney Council tenants. Redevelopment of the Trinity Court site will enable the Council to provide around 40 new homes and nearly 600 square metres of non-residential space in its place, as part of the second phase of development at the De Beauvoir Estate (DB2). This would result in an improved scheme, as it will replace a tired building at the entrance of the estate and facing directly on to Downham Road.
- 4.2 The new building will make more efficient use of space through provision of a new, modern block that will provide an anticipated additional 34 homes compared to the current one. It will also create a new, live frontage to the entrance and internal route through the estate by replacing the current row of blank rear yard walls, with new commercial space and a communal entrance and glazed hallway at ground floor level.
- 4.3 Assigning decant status to Trinity Court will enable the Council to continue to engage with the households impacted by this proposal through the established decant (rehousing) process. This includes: carrying out a future housing needs assessment, discussion of the range of rehousing options available and access to an independent tenant advisory service throughout the process. Residents will also receive home loss payment and be reimbursed for their reasonable moving costs. The terms of the Council's offer were set out to residents in a Landlord Offer document, attached for information at Appendix 2, prior to conducting the ballot.
- 4.4 Placing an Initial Demolition Notice (IDN) on Trinity Court will suspend any current and future Right to Buy (RTB) applications by the five Council tenant households living in Trinity Court. Tenants can still make a RTB application, but the Council is not obliged to take the application forward during the Notice Period, and the tenant's claim ceases to be effective if a Final Demolition Notice (FDN) is placed on the block. The Council can set the IDN period up to a maximum of seven years. Schedule 5A of the Housing Act 1985 as inserted by clause 182 of the Housing Act 2004 and amended by the Housing and Regeneration Act 2008 provides the Council with the authority to place the IDN and FDN on the block.

- 4.5 A Final Demolition Notice will be issued to secure tenants and business occupiers if planning permission is granted for the redevelopment scheme. This notice can last up to two years.

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1. The Council's Housing Supply Programme was approved by Cabinet in 2016. The HSP will be delivered directly by the Council to provide new council homes for social rent, shared ownership and outright sale, the latter in order to generate cross subsidy for the construction of the former.
- 5.2 The De Beauvoir New Homes Phase 2 (DB2) project is identified within this programme and includes the redevelopment of Trinity Court. Residents eligible to vote were balloted on the redevelopment proposal, and the majority of residents (75%) voted in favour. This enables the Council to include the block as part of the DB2 scheme, providing additional homes and non-residential space.
- 5.3 A 'do nothing' approach has been rejected, as not assigning decent status to the households within the block and not placing an Initial Demolition Notice and subsequent Final Demolition Notice, if planning consent is granted for the scheme, would delay the redevelopment and expose the Council to additional costs.

6. BACKGROUND

6.1. Policy Context

- 6.1.1 The Council's Sustainable Community Strategy 2018-2028 has five priorities. The DB2 project, which includes the Trinity Court redevelopment, assists in meeting these priorities in the following ways.
- 6.1.2 The first priority is centred around creating an area where everyone can enjoy a good quality of life and where the whole community can benefit from growth. The DB2 project will provide a mix of homes with differing levels of affordability, which caters to all ages and accommodates people's changing needs over time. The new community places and spaces have been designed for and in consultation with the existing community to contribute to meeting their needs whilst also being inclusive, welcoming and accessible to incoming residents.
- 6.1.3 The construction of the DB2 development will create jobs, training and apprenticeship opportunities for local people, which will allow local residents and businesses to fulfil their potential and enjoy the benefits of increased prosperity, in line with the second priority.

- 6.1.4 The architectural, mechanical and electrical and public realm designs for the development are centred around creating a greener and more environmentally sustainable community as per the third priority of the Sustainable Community Strategy 2018-2028.
- 6.1.5 The fourth priority of creating an open, cohesive, safer and supportive community will be achieved through the provision of improved landscaping and enhancement of a key north/south route through the estate. It also provides new play space as part of the development, as well as offering employment and training. Further, the scheme will provide new commercial space that will be let to businesses in accordance with the Council's economic development strategy.
- 6.1.6 The proposed improvements to the public realm will help create a healthy and safer neighbourhood which is pedestrian, cyclist and child friendly, to support the fifth priority relating to promoting healthy and active residents.

6.2. Equality Impact Assessment

- 6.2.1 The Council is committed to building new homes that are adaptable to the varying needs of occupiers over time, and that will enable people to live independently in their homes for longer. Of the anticipated 40 new homes to be built on the Trinity Court site, six of these would meet Part M4(3) of the Building Regulations - 'wheelchair user dwellings and adaptable dwellings'. All the other homes are designed to M4(2) standards, which refer to accessible and adaptable dwellings.

6.3. Sustainability

- 6.3.1 The architectural, mechanical and electrical and public realm designs are driven by the sustainability goals of the project. The proposal has been carefully considered in terms of performance and carbon footprint. The resulting proposal exceeds the minimum building standards, providing a holistic environmental scheme. The project goes beyond the minimum regulations and practices, achieving high performance facade, quality indoor spaces, new public realm and enhancements to the existing landscaping which has both social and environmental benefits.
- 6.3.2 The DB2 proposal comprises redevelopment of four sites currently occupied by poor quality, low rise and low density buildings. The scheme will provide high quality housing and soft landscaping to enhance the appearance and the ecological value of the environment. A number of environmental benefits will arise from the project. The development includes enhancements to the existing public realm, along with improved access to the existing estate, which will help integrate new and existing buildings.

- 6.3.3 The new buildings will provide high quality energy efficient homes that meet current regulatory requirements relating to sustainability including Building Regulations, the Mayor's London Plan and the Council's Housing SPG. The new homes have been designed to achieve the required energy levels in accordance with current London Plan energy targets, and to support the transition from fossil fuels to renewable energy.
- 6.3.4 Recycling construction waste and the development of a Site Waste Management Plan are mandatory. The principal contractor will be required to minimise construction related disruption to residents and other neighbouring buildings.
- 6.3.5 In line with Hackney's Cycle Parking and Storage Standards, the scheme encourages sustainable transport through the provision of around 266 new cycle spaces within the ground floor of the blocks.
- 6.3.6 The DB2 development will fall under the Ultra Low Emission Zone (ULEZ) when construction commences. In order to reduce the impact on air quality during the construction phase, development proposals must demonstrate how they plan to comply with the Non-Road Mobile Machinery Low Emission Zone and reduce emissions from the demolition and construction of buildings following best practice guidance.

6.4. Consultations

- 6.4.1 The redevelopment of Trinity Court is part of the wider DB2 scheme to provide around 118 new homes and approximately 1,300 square metres of non-residential space.
- 6.4.2 An extensive consultation and communication programme has been undertaken and is ongoing consisting of: public drop-ins, in person, online and video information and consultation events, face to face meetings where Covid protocols allowed, a dedicated webpage, newsletters and other forms of correspondence. The engagement and consultation to date has targeted local residents, businesses and key elected and community stakeholders. The aim is to ensure that as many people as possible are engaged, understand the proposals and are able to shape the designs for the new homes and public spaces
- 6.4.3 Between April 2019 and May 2021 the Council held 22 different events for local residents and stakeholders about the proposals for the DB2 project. In addition, the proposals were reported through the established De Beauvoir Resident Steering Group (RSG) from April 2019.
- 6.4.4 The project engagement included events and information specifically for the six households and four business occupiers in Trinity Court. An Independent Tenant and Leasehold Adviser (ITLA) was also commissioned to provide advice and support to Trinity Court occupiers, that was entirely separate to

the Council's project team. Events and communications for Trinity Court residents included:

- March 2019 - letters to Trinity Court residents and businesses introducing the DB2 proposals that included redevelopment of the block
- April 2019 - open meeting for Trinity Court occupiers
- April 2019 - first public consultation event that introduced the DB2 proposals to the estate and other stakeholders
- June 2019 - meetings with Trinity Court residents and businesses
- February 2020 - drop-in event for Trinity Court residents
- July 2020 - letter to residents advising that the Council will conduct a Resident Ballot on the redevelopment proposals
- December 2020 - Trinity Court residents' video call introducing the ballot process and initial details of the Landlord Offer
- January 2021 - Trinity Court residents' video call confirming the ballot process and further details of the designs for the new block
- June 2021 - Landlord Offer document delivered to Trinity Court households
- Ballot open from 14 July to 11 August 2021
- August 2021 - Letter from the independent ballot services provider advising households of the ballot outcome
- October 2021 - Letter from the DB2 project lead advising on next steps.

6.4.5 Alongside the project team's engagement directly with residents regarding the redevelopment proposals and ballot process, the project team and Strategic Property Services team has liaised with the business occupiers throughout the design and consultation process.

6.4.6 The project team and ITLA will continue to engage with residents and business occupiers throughout the decant and development process.

6.5. Risk Assessment

6.5.1 A risk register, scheduling project and technical risks, is maintained, updated and reported on a quarterly basis. Any major risks are escalated as appropriate. One such risk contained within the DB2 project risk register is that not obtaining vacant possession (VP) of the Trinity Court block could result in an adverse cost and programme impact to the regeneration scheme.

6.5.2 The Council owns both Trinity Court and the land it occupies. The project team has engaged extensively with both Trinity Court residents and business occupiers, and relationships are currently positive.

6.5.3 The five remaining households occupy their homes on secure council tenancies. If decant status is granted to the block, the project team will continue to work with each household to identify suitable alternative

accommodation for either temporary or permanent rehousing. If all residents agree to move while the works are carried out, then there would be no need to secure vacant possession through a legal process.

- 6.5.4 In the event of a resident being unwilling to move, the Council can follow a formal legal route to gain possession. Schedule 2 of the Housing Act 1985 sets out the Grounds for possession of secure tenancies that are available to local authorities where the landlord intends to demolish the property and needs possession in order to do so. While, for a larger estate regeneration scheme, it would be appropriate for the Council to use its Compulsory Purchase powers to acquire both tenanted and leasehold/freehold properties, this would be disproportionate for the five occupied homes at Trinity Court. It is therefore proposed to use the Grounds for possession, as set out in recommendation 3.3, should it not prove possible to move residents on mutually agreeable terms.
- 6.5.5 The project team is actively liaising with business occupiers to identify suitable temporary workspace to enable them to continue operating during any redevelopment. The business tenants have agreements granted on individual terms which can be terminated on notice or, in the extreme, the Council can apply for possession through a formal legal process if required.

7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 7.1 There are no direct financial implications from the report's recommendations. The recommendation to grant decant status to the tenants will result in them requiring alternative accommodation during the development of the scheme. The regeneration scheme is currently unviable, mainly due to the current construction and housing market, however there is further work and time to fully develop the scheme to tender phase where the viability will be reassessed and changes may be required to develop the scheme. This scheme and work can only progress with the decant status of the block and therefore the report's recommendations are supported.

8. VAT Implications on Land & Property Transactions

- 8.1 On the basis that the existing property will be demolished and a new building constructed, there should be no VAT charged on the construction of the residential units. VAT should only be charged on the construction of the commercial units. It may also be possible to apportion the demolition costs between the residential and commercial so that VAT is only charged on the proportion attributable to the commercial part, with the remainder zero rated.
- 8.2 The lease of the new commercial property will be an exempt supply so any VAT that the Council does incur in relation to this element will need to be included in the Council's partial exemption calculation.

- 8.3 The HRA will be a non business supply so any VAT that is incurred on this part will be recoverable in full. Assuming the sales will be the grant of a long lease in excess of 21 years, the sale will be zero rated, so any VAT incurred on the private sale dwellings should be recoverable in full.
- 8.4 The shared ownership will incorporate a long lease in excess of 21 years, so the sale part will be zero rated, followed by an exempt rent. Any VAT incurred up to the point of sale will relate to the zero rated element and hence recoverable in full, but VAT on ongoing costs will be exempt input tax and will need to be included in the Council's partial exemption calculation.

9. COMMENTS OF THE DIRECTOR OF LEGAL & GOVERNANCE SERVICES

- 9.1 The Council's Housing Supply Programme was approved by Cabinet in 2016.
- 9.2 Cabinet subsequently approved an update on the Regeneration Division's programme in April 2019, which set out a revised delivery plan. This included a second phase of development on the De Beauvoir Estate. Within the De Beauvoir Estate is Trinity Court.

Initial and Final Demolition Notice

- 9.3 Section 182 of the Housing Act 2004 provides a statutory procedure for the service of Initial and Final Demolition Notices by authorities. Broadly, the effect of the service of Initial Demolition Notices on secure tenants is to suspend the requirement for the Council to complete right to buy applications for as long as the notice remains in force. The Initial Demolition Notice is required to contain certain prescribed information including a statement that the landlord intends to demolish the property, the reasons for this and the period within which the demolition will take place, which must be a reasonable period expiring not more than seven years after the date of service of the Notice on the tenant.
- 9.4 The Notice does not prevent tenants from making right to buy applications. However, the effect of the notice is that the Council is not obligated to complete any right to buy applications within the period specified in the Notice.
- 9.5 In the event that the Notice expires before the demolition has taken place, the consent of the Secretary of State would be required to serve a further Initial Demolition Notice.
- 9.6 Tenants with existing right to buy claims at the time the Initial Demolition Notices are served are entitled to claim compensation for legal and other

fees, costs and expenses incurred prior to the Initial Demolition Notices coming into force. At the time of writing there was no right to buy applications at Trinity Court.

- 9.7 Once the proposed demolition date is actually known, the Council can then serve a Final Demolition Notice which renders all existing right to buy applications ineffective and prevents any further right to buy applications being made. Again, compensation will be payable to Tenants with existing right to buy claims at the time the Final Demolition Notices are served.

Secured tenancies and Commercial Units

- 9.8 Schedule 2 of the Housing Act 1985 sets out grounds for possession of secure tenancies
- 9.9 Ground 10 of Schedule 2 of the Housing Act 1985 provides a process whereby the Council may obtain vacant possession subject to the Council meeting certain criteria as set out in Ground 10 of Schedule 2 of the Housing Act 1985.
- 9.10 Section 30(1) of the Landlord and Tenant Act 1954 sets out 7 grounds upon which a landlord can oppose the grant of a new lease therefore obtaining vacant possession.

APPENDICES

Appendix 1 - Location plan showing Trinity Court footprint outlined in red

Appendix 2 - Trinity Court Landlord Offer document

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

None

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