

Woodberry Down Phase 4 - Proposed Serving Of Demolition Notices, Suspension Of Right To Buy And CPO Preparatory Work

Key Decision No. FCR R93

**CABINET MEETING DATE
(2021/2022)**

28 February 2022

CLASSIFICATION:

Open

WARD(S) AFFECTED

Woodberry Down

CABINET MEMBER

Mayor Philip Glanville

KEY DECISION

Yes

REASON

Spending or savings

GROUP DIRECTOR

Mark Carroll, Chief Executive

1. CABINET MEMBER'S INTRODUCTION

- 1.1. Hackney is building. Across the borough, we're building our own homes, working in partnership with developers on our own land and working closely with local residents to build the genuinely affordable homes our borough badly needs.
- 1.2. While we'll continue to build homes ourselves where we can, it's vital that we use every option available to get more social housing built for our residents – and our unique partnership at Woodberry Down is doing just that. It started at a time when Councils were unable to build our own homes nor could they invest in modernising all their estates. At Woodberry Down, since 2009, with our partners we've built over 2,000 new homes, of which so far 533 are for social rent and 281 shared ownership, alongside a new secondary school, community facilities, new parks, youth hub and the reopening of the stunning Woodberry Wetlands. The phase currently on site will deliver 117 much needed social rented homes, including options for all council tenants currently living in Phase 4.
- 1.3. Crucially, this is all done together in a close partnership with residents through the Woodberry Down Community Organisation (WDCO), and our partners Berkeley Homes and Notting Hill Genesis, alongside social economic regeneration with partners like Manor House Development Trust and now Hackney Cooperative Developments. From the start this project has been co-produced, shaped and steered by local residents working across this close partnership, firmly focused on building the new social rented homes they have long been promised. The Council has also worked hard through every phase to keep the community intact at Woodberry Down, ensuring a clear right to return, minimising the number of decants and off estate moves, and firmly offering every secure tenant and resident leaseholder a new home on the new estate.
- 1.4. The regeneration of Woodberry Down is well underway - construction of Phase 3 of the redevelopment commenced in Autumn 2021, and detailed designs are currently being prepared for Phase 4.
- 1.5. To ensure that the regeneration goes to programme the Council is legally required, under the terms of the Principal Development Agreement (PDA), to secure vacant possession of Phase 4. This report requests approval to start the relevant processes to achieve this. We will alongside this report continue the work to update the relevant offer documents for secure tenants and leaseholders, ensuring they are fit for purpose and ready to support working with residents in this and future phases.

- 1.6. Our partnership at Woodberry Down is already transforming the lives of residents who live there, providing modern, high-quality social housing for families who need it most. This report keeps that promise to residents and supports the next steps in this journey, ensuring that that work can continue and I recommend this paper to Cabinet.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1. The nature of the regeneration of Woodberry Down allows for tenants to be rehoused on a phase by phase basis, moving into completed new homes, thus vacating blocks which will then be demolished to enable building of the next phase. An agreed phasing plan is included in the PDA. When a phase is scheduled for demolition it is considered to be 'in Phase'.
- 2.2. The phase currently under construction, Phase 3, will deliver 117 social rented homes, which will provide more than sufficient accommodation for all council tenants currently living in Phase 4. It also has the capacity to provide homes for the majority of tenants in Phase 5. Phase 3 is due to complete in late 2024, and the demolition of Phase 4 is due to commence in early 2025.
- 2.3. In order to ensure that the Council secures vacant possession of Phase 4 it is necessary to rehouse tenants living in these homes, and to buy back leasehold properties. To achieve this a number of actions are required, including serving demolition notices, awarding Decant Status, providing compensation payments and preparing a Compulsory Purchase Order (CPO). This report sets out details of and reasons for these necessary steps, and seeks approval for Officers to commence them.

3. RECOMMENDATION(S)

Cabinet is recommended to:

- 3.1. Authorise the service and publishing of Initial Demolition Notices to suspend Council tenants 'Right to Buy' in relation to secure tenancies in Phase 4, as set out in the plan in Appendix 1, under Section 138A and Schedule 5A of the Housing Act 1985 as amended by the Housing Act 2004.**
- 3.2. Award Decant Status to secure tenants living in blocks within Phase 4, as set out in the plan in Appendix 1.**
- 3.3. Agree the payment of home loss and disturbance payments to secure tenants in Phases 5 - 8 who move into homes that are newly built as part of Phase 3, or homes which have already been built in earlier phases of the Woodberry Down redevelopment.**

- 3.4. Delegate authority to the Director of Regeneration to vary, after consultation with the Lead Member, the Secure Tenants' Offer Document and Leaseholders' Offer Document as necessary, in order to implement the recommendations set out in this report.**
- 3.5. Authorise the preparation of the necessary legal and other documentation required to make a Compulsory Purchase Order (CPO) for Phase 4.**
- 3.6. Authorise the Director of Legal and Governance Services to deal with all necessary legal documentation to effect the proposals set out in this report.**

4. REASONS FOR DECISION

- 4.1. This authority is required to ensure that the regeneration proceeds in accordance with the identified programme and in line with the Council's legal obligations contained within the Principal Development Agreement (PDA) for Phases 2 - 8.
- 4.2. Berkeley Homes is currently constructing Phase 3, which will provide 117 social rented homes and 13 shared equity properties.
- 4.3. The detailed planning application for Phase 4 is due to be submitted to Planning in 2022. Demolition of Phase 4 is due to commence in Spring 2025. To accomplish this programme the blocks in Phase 4 must be vacant by this time. There are currently 200 occupied homes in Phase 4, including 33 Secure Tenants. The Phase 4 residential blocks affected are Lonsdale, Leighfield, Knaresborough, Kilpeck, Keynsham and Finmere House.
- 4.4. All of the council tenants from Phase 4 who wish to remain on the estate will move into the completed new homes on Phase 3, where there will also be sufficient new homes to rehouse the majority of Phase 5 tenants who choose to move. Remaining unallocated properties will be offered to tenants in later phases, as described in 4.29.

- 4.5. The following table shows the total number of occupied homes in Phases 4 - 8:

| | SECURE | NON-SECURE | LEASEHOLD | OTHER | TOTAL |
|----------------|---------------|-------------------|------------------|--------------|--------------|
| Phase 4 | 32 | 109 | 42 | 2 | 185 |
| Phase 5 | 66 | 101 | 27 | 0 | 194 |
| Phase 6 | 59 | 106 | 30 | 1 | 196 |
| Phase 7 | 61 | 44 | 13 | 2 | 120 |
| Phase 8 | 104 | 56 | 45 | 1 | 206 |
| TOTAL | 322 | 416 | 157 | 6 | 901 |

Figures as at 31/01/2022

- 4.6. Wherever possible, homes that are vacated as a result of the council tenant being rehoused or through leaseholder buy-backs, are brought back into use until they need to be demolished ahead of the next phase of construction - whether this is for homeless households who are awaiting a permanent home, to provide safe accommodation for refugees or as a temporary housing option for council tenants whose own homes require major works. All the void properties at Woodberry Down are being brought into temporary use, with the exception of 10 flats that are beyond economic repair.

Right to Buy (RTB) for existing Council tenants

- 4.7. The authorisation requested in this report will allow the blocks in Phase 4 to be demolished without the risk of additional properties being purchased under Right to Buy (RTB).
- 4.8. Tenants who have not yet been rehoused have the right to buy their homes under RTB, *except* where the Council has served prescribed Notices which inform tenants of the Council's intention to demolish their home as follows:
- 4.8.1. Under Section 138A and Schedule 5A of the Housing Act 1985 as amended by the Housing Act 2004, a landlord can serve Initial Demolition Notices ("IDNs") on secure tenants which will suspend Right to Buy applications.
- 4.8.2. An IDN informs the tenant that their home is to be demolished, the reason for doing so (in this case for the continued regeneration of Woodberry Down), and the period within which demolition will take place (anticipated to be completed by Summer 2025).
- 4.8.3. Where there is an existing Right to Buy claim underway at the time of the service of the IDN, a compensation claim can be made for expenses incurred by the tenant in relation to their claim.

- 4.9. In order to adhere to the delivery programme for the regeneration, and to ensure that the financial viability of the scheme is not compromised by the need to purchase further residential properties in order to achieve Vacant Possession, it is recommended that the Council extinguish the potential for further Right to Buy applications.

Decant Status - Phase 4

- 4.10. The award of Decant Status allows council tenants who wish to move away from Woodberry Down to bid for properties off the estate. It increases their priority for rehousing and entitles them to receive home loss and disturbance payments. This is required in order to facilitate tenants moving into new homes, whether on or off the estate. These moves need to take place in a phased manner in order to assist the development programme, and to allow existing blocks to be demolished in accordance with the agreed phasing plan.
- 4.11. It is anticipated that the majority of tenants in Phase 4 will move into the new homes being developed in Phase 3, and the Council is committed to ensuring that all secure tenants remain in Woodberry Down should they wish to. However, tenants will be supported in finding a new home, whether on or off the estate, by the Decant Team.
- 4.12. Awarding Decant Status to council tenants in Phase 4 also enables them to receive home loss and disturbance payments as part of their relocation.
- 4.13. The award of Decant Status to Phase 4 tenants will enable the secure tenants to move into the completed homes in Phase 3, thus vacating Phase 4 to enable its onward transfer to Berkeley Homes.

Compulsory Purchase Order (CPO) - Phase 4

- 4.14. There are 42 leasehold properties in Phase 4. It is recommended that Officers enter into negotiations with these leaseholders and freeholders with a view to acquiring their properties to ensure that Vacant Possession can be achieved.
- 4.15. The preference is to reach agreement by negotiation with leaseholders and freeholders regarding the buy-back of their properties. However, it is recognised that it may not be possible to reach agreement in all cases. In such instances, the Council would need to exercise CPO powers in order to acquire the legal interests of leaseholders and freeholders, as well as any other rights and interests, such as secure tenancies, together with adjoining roads and any private rights, including utilities, within the redline boundary of the area subject to the CPO, i.e. Phase 4 (as shown in Appendix 1).
- 4.16. The use of a Compulsory Purchase Order (CPO) would therefore only be required where all other attempts to reach a negotiated settlement have

failed. However, it is important to undertake the CPO process to avoid a potential delay to the programme, something that would result in additional costs to the Council and risk the viability of the scheme. A CPO process can take up to 18 months or more to complete, and so this needs to start alongside ongoing attempts to reach a negotiated agreement with individual leaseholders and freeholders.

- 4.17. Leaseholders, freeholders and secure tenants on all affected parts of Phase 4 will be consulted and notified of the Council's intention to both commence the CPO process and, in the case of leaseholders and freeholders, to begin negotiations on the buy-back of their properties by agreement.
- 4.18. The Council believes there is a compelling case in the public interest to seek, if necessary, to compulsorily acquire the interests in the Phase 4 land covered in this report.
- 4.19. A further report, once preparations have been made, will be submitted to Cabinet to request the authorisation to make a CPO for Phase 4.
- 4.20. The future report will include details of the CPO Indemnity Agreement (or alternative) provided by Berkeley Homes to minimise the financial risk to the Council in making the CPO, as making a CPO would commit the Council to covering all of the costs involved in acquiring all the legal interests in the CPO area (in this case Phase 4). This would be a significant financial outlay for the Council.
- 4.21. Under the terms of the PDA these costs will be indemnified by Berkeley Homes. Normally a CPO Indemnity Agreement is provided when the planning application for the relevant Phase is approved. If there is a delay with the process for achieving planning consent, an interim agreement will be sought before seeking approval to confirm the CPO.

Secure Tenant and Leaseholder Offer Documents

- 4.22. The Council is developing its tenants' and leaseholders' offers following the lettings policy review and review of the leaseholder rehousing options. In 2016 the Council approved a range of options to enable leaseholders and freeholders to remain on the estates where they currently live, if they wish, recognising that they are a key part of the community. These options formed part of the Woodberry Down Leaseholder and Freeholder Options Document.
- 4.23. A range of support is provided to tenants with choosing a home and moving, as set out in the Secure Tenant Offer Document, the current version of which was approved in 2014. This document explains the process, programme, options and compensation available for tenants. Although this document covers Phase 4 it requires updating to reflect changing lettings policies, Tenant Choice and lessons learnt from earlier phases of the regeneration. The document is currently being revised with a view to using this with Phase

4 tenants in Spring 2022.

- 4.24. The leaseholder offer document was last updated in November 2018 to provide leaseholders and freeholders with clear and concise information on their rehousing options. The document provides detailed information about the buy-back process, the compensation to which owners are entitled, and the various housing options should they wish to purchase a new home on the estate. The offer document is also being updated to reflect current changes in legislation and lessons learnt from leaseholders who moved into Phase 2.
- 4.25. Both documents provide comprehensive information to enable Woodberry Down residents to make informed rehousing choices.

Tenant Choice

- 4.26. 'Tenant Choice' is facilitated by Berkeley Homes and Notting Hill Genesis, and is the process by which tenants who are pre-allocated homes under construction on Phase 3 are provided with a series of options for the decor and fit-out of their new home, including choices of wall colour, flooring, window treatment and bathrooms. Each choice is independent of the others, i.e. a choice of each item as opposed to a package.
- 4.27. Tenant Choice provides a significant benefit to tenants and an incentive to encourage moving home, but it is complicated to deliver since the homes must be pre-allocated and the choices made by the tenants provided to Berkeley Homes as required by the construction programme. Commencing the timely pre-allocation of homes as set out in this report is key to this process.

Home Loss and Disturbance Payments - Phases 5 - 8

- 4.28. 117 social rented homes are being constructed in Phase 3, however Phase 4 contains only 33 Secure Tenants.
- 4.29. The Housing Needs Team allocates homes on Woodberry Down in order of phase and then tenancy start date. Therefore surplus Phase 3 homes, which are not allocated to Phase 4 tenants, would be offered first to Phase 5 tenants, followed by Phases 6, 7 and 8.
- 4.30. As there are expected to be sufficient remaining homes in Phase 3, to rehouse all or most of Phase 5 tenants (in addition to Phase 4), it is proposed that Phase 5 tenants are included in the pre-allocation programme, including the opportunity to participate in Tenant Choice. Once all tenants who wish to move to Phase 3 from Phases 4 and 5 have been allocated a home, any remaining unallocated homes would then be offered to tenants in future phases. If time permits those tenants would also be able to participate in Tenant Choice.

- 4.31. Tenants in Phase 5 (or later phases) would not be 'in phase' or have Decant Status. However, the Council offers compensation payments to out-of-phase tenants who wish to move to a newly developed home in Woodberry Down, or in this case be pre-allocated a home in Phase 3. While Phases 5 and above would not be subject to a demolition order, the Council is still encouraging residents to move as part of the regeneration. For clarity, tenants would not qualify for compensation if they wish to leave the estate until they are in phase.
- 4.32. Paying compensation to out-of-phase tenants who move within Woodberry Down is offered as part of the regeneration, and the cost of the compensation is reimbursed by Berkeley Homes to the Council under the terms of the PDA. However, this reimbursement does not take place until the relevant phase has commenced (e.g. if a tenant from Phase 5 moves out-of-phase and is compensated by the Council, the reimbursement of the payment would not be made until Phase 5 is in phase). This means that there is a risk to the Council in making payments as, whilst it is assumed that the regeneration will continue, each phase is subject to viability. If a phase falls away the payments incurred by the Council in connection with that phase would not be reimbursed.
- 4.33. The fact of these payments is noted within this report as, due to the number of tenants involved, it is anticipated that there will be a relatively large expenditure in payments to out-of-phase tenants. However the risk of abortive expenditure is low, and tenants moving out of a later phase home helps de-risk the regeneration programme. It may also provide a void property which can be used for temporary accommodation by the Council.
- 4.34. The amount of compensation that would be committed by offering Phase 3 homes in the way set out above to out-of-phase tenants is estimated to be in the region of £800,000. The exact amount would depend on how many of the Phase 3 homes are pre-allocated to Phase 4 tenants, and how many are subsequently accepted by later phase tenants.
- 4.35. The Council pays the compensation costs to the tenant when they move into their new home.
- 4.36. Out-of-phase tenants are not entitled to other aspects of 'Decant status' including the split household.

Human Rights

- 4.37. The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("the Convention"). Specific rights protected by the Convention include, amongst others:

- *the right of everyone to the peaceful enjoyment of their possessions, which can only be impinged upon in the public interest and subject to relevant national and international laws;*
- *the right to a fair and public hearing for those affected by the CPOs, including those whose property rights are affected by the same; and*
- *the right to a private and family life, home and correspondence, which again can only be impinged upon in accordance with law and where such encroachment is necessary in the interest of national security, public safety or the economic well being of the country.*

4.38. The above rights would be affected by the use of compulsory purchase powers to acquire land and interests for the regeneration of the Phase 4 area. However, the European Court has recognised that "*regard must be had to the fair balance that has to be struck between competing interests of the individual and of the community as a whole*". Any interference with a Convention right must be necessary and proportionate.

4.39. In light of the significant public benefit which would arise from the implementation of the regeneration of Phase 4, and the fact that known owners and occupiers within this phase have been contacted or will be contacted regarding the regeneration of Phase 4 and will, should their land be compulsorily acquired, qualify for compensation under the compensation code, the Council has concluded that it would be appropriate to prepare works in respect of a potential CPO. It does not regard the CPO as constituting an unlawful interference with any individuals' rights under the Convention, including, in particular, any property rights.

4.40. The Council is of the view that there is a compelling case in the public interest that the regeneration of Phase 4 should outweigh the private interests held. It also believes that the potential use of compulsory purchase powers to achieve its regenerative objectives for this phase are proportional to the interference with human rights.

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

5.1. Vacant possession of the Order Land (as set out in the plan in Appendix 1) is required in order for the redevelopment to be delivered. Vacant possession can only be achieved by rehousing Council tenants and by acquiring the leasehold and freehold interests that exist. The Council will work closely with tenants to help them find a new home that meets their needs, whether in Woodberry Down or elsewhere. The Council is committed to acquiring these interests by negotiation, however, this may not be possible in all cases. Where agreement by negotiation is not possible, the only other option to acquire leasehold and freehold interests is through the exercise of the Council's powers of compulsory purchase.

- 5.2. Refurbishment of the existing homes is not considered to be a realistic option, as the housing fails to meet the Decent Homes Standard and was found to be beyond economic repair. This was detailed in the Cabinet Report of 4 November 2002, where five options for the Woodberry Down Estate, including demolition, were first put forward. The Council concluded that the demolition of the Estate and its replacement with modern residential accommodation, compliant with current regulations, policies and standards, was the best and most cost effective option.
- 5.3. Doing nothing is not an option, as the Council has a duty of care to provide decent homes to its tenants. Failure to secure vacant possession of Phase 4 would also jeopardise the delivery of the remaining phases (Phases 5 - 8). Therefore, the redevelopment is vital in order to complete the wider programme at Woodberry Down, realise the associated benefits, and deliver on this fundamental duty.

6. BACKGROUND

Description of the development

- 6.1. Woodberry Down is one of the largest single-site estate regeneration projects in Europe. It is being delivered by the Council in partnership with Berkeley Homes (the Developer) and Notting Hill Genesis (Housing Association).
- 6.2. The development programme in Woodberry Down is being carried out in a phased manner, and sites are being brought forward for development in line with the commitments set out in the Principal Development Agreement (PDA), which includes an agreed phasing plan. When a phase is scheduled for demolition it is considered 'in Phase'. The principle of bringing forward the regeneration at Woodberry Down by phased development was established in 2006, and Berkeley Homes was appointed as preferred bidder on the basis of a non-transfer phased re-development of the estate in conjunction with Genesis Housing Group (in 2018 Genesis Housing merged with Notting Hill Housing to form Notting Hill Genesis). The Phasing Plan is included at Appendix 2.
- 6.3. Approval to sign the PDA was granted by Cabinet in 2010, setting out that Berkeley Homes is to be granted a 299 year lease from the Council upon commencing construction of each phase. The Council retains the freehold to the land. The most recent revisions to the PDA can be found in the Cabinet report '*DELEGATED REPORT for the approval of the Woodberry Down Phase 2-8 Variation to the Principal Development Agreement*' which was approved on 1 December 2020 (Key Decision No. NH Q18).
- 6.4. Approval to dispose of Phase 3 (i.e. grant a 299 year lease) was agreed by Cabinet on 13 September 2021 (key decision CES015); Cabinet also granted delegated authority to dispose of Phase 4 in due course.

- 6.5. Construction started at Woodberry Down in March 2009, and the first residents moved into their new homes in 2011. So far 2,177 homes have been completed, of which 533 are for social rent and 281 are shared ownership. Phase 3 is under construction, with 117 homes for social rent due to complete in Autumn 2024, out of a total 584 homes. Phase 4 will be the next phase to come forward at Woodberry Down, with the detailed planning application due to be submitted in the second half of 2022.
- 6.6. Berkeley Homes intends to begin development of the Phase 4 site as soon as Phase 3 is complete, in order to provide continuity of construction work. Phase 3 is due to complete in late 2024, and the demolition of Phase 4 is intended to commence in early 2025.
- 6.7. The original masterplan for Woodberry Down was adopted in 2007 and first updated in 2009, allowing for a five phase programme and a tenure mix of 41% of the new homes being for social rent and shared equity/ownership. In 2012 the masterplan was reviewed in consultation with local residents. The revised masterplan received planning consent in February 2014. Under that consent, detailed permission was granted for Phase 2, for 670 homes and 550 sqm of non-residential space, and outline permission was granted for the remainder of the scheme (Phases 3-8) comprising of up to 3,242 residential units, 10,921 sqm of commercial floorspace and the provision of a new open space, highway improvement works to Seven Sisters Road, and an energy centre. A review of the 2014 masterplan is currently underway, covering the remaining phases.

Policy Context

- 6.8. Hackney's 'Sustainable Community Strategy 2018 – 2028' sets out a vision for mixed use neighbourhoods which cater to all ages, where residents have access to decent, stable and genuinely affordable housing that meets their needs. The regeneration of Woodberry Down, which is facilitated by the Initial Demolition Notices, progression of a CPO for Phase 4, and awarding of decant status for Phases 4 and 5, will assist in realising this vision. Phase 4 is due to deliver 117 homes for social rent and 126 new shared ownership/equity homes at Woodberry Down, also helping to meet the relevant Manifesto commitments.

Equality Impact Assessment (EqIA)

- 6.9. Broadly, the regeneration of Woodberry Down will facilitate the delivery of new affordable homes in the years ahead, helping to address the poor living conditions and deprivation experienced by many residents at present.
- 6.10. The regeneration operates in the context of a wide range of national legislation and local policy, including that around planning and housing. Such legislation and policies operate in the same context with regards to equalities,

and similarly consider impacts on protected groups. For example, the planning application process contains its own explicit EqIA process, whilst the Council's housing allocation procedures (including the Leaseholder and Freeholder Options that are specific to Woodberry Down) have been drawn up on the basis of their own EqIAs.

- 6.11. A full EqIA will be undertaken as part of the preparation of a Compulsory Purchase Order (CPO) for Phase 4. This will assess the impacts of the Order on the different groups affected (leaseholders, private tenants and secure tenants) and whether the Order could produce disadvantage or enhance opportunity for affected groups or individuals with protected characteristics. It will then set out recommendations to remove or reduce disadvantage for those affected and outline relevant mitigation strategies.
- 6.12. The above mentioned EqIA will be published as part of a further Cabinet Report seeking permission to make the CPO.

Sustainability

- 6.13. The regeneration of Woodberry Down will result in a more mixed and potentially more integrated community, given the mix of new housing being provided, as well as the improved community facilities and shared communal outdoor spaces and public realm.
- 6.14. Specifically in terms of environmental sustainability, a recent (2020) update to the Principal Development Agreement (PDA), which defines the terms of the regeneration, brings the sustainability standards of the development in line with national and local policy.
- 6.15. Phase 4 will connect into the District Heat Network at Woodberry Down. Phases 1 and 2 are currently served by gas-fired Combined Heat and Power systems, and Phase 3 will be heated by Air Source Heat Pumps. Berkeley Homes has prepared a Low Carbon Transition Plan which outlines how the existing systems will connect to form a site wide District Heat Network. An energy centre is being developed in Phase 3, which Phase 4 will connect into once complete.

Consultations

- 6.16. Comprehensive and detailed consultation is an integral part of the delivery of the Woodberry Down regeneration.
- 6.17. Residents and WDCO (Woodberry Down Community Organisation) were engaged in an extensive consultation process during the development of the Masterplan in 2014, which included the phasing of the regeneration of which Phases 4 and 5, as described in this paper, were a part. WDCO worked closely with the design team, and both challenged the designs, but also engaged with residents more widely in Woodberry Down to seek support for

the Masterplan.

- 6.18. As part of the wider regeneration programme, the development of Phase 3 has been the subject of regular updates at the WDCO Board meeting, as well as Round Table meetings with the scheme partners. The Design Committee, made up of representatives from WDCO, Berkeley Homes, Notting Hill Genesis and the Council, has contributed to the development of designs for Phase 3. The planning application included a Statement of Community Involvement within the Design and Access Statement, detailing the scope of consultation with various stakeholders, as well as the local residents and the wider community.
- 6.19. In Summer 2021 a Housing Needs Survey was distributed to all tenants living in Phases 4 - 8 of Woodberry Down, to enable the planning of future development by Berkeley Homes, to provide the right mix of homes for the tenants remaining in Woodberry Down. 66% of residents responded to the survey, with 63% in Phase 4 and 68% in Phase 5. Officers from the Decant Team are following up with individuals to confirm findings, and endeavour to fill gaps in information.
- 6.20. The Decant Team is regularly in touch with residents living in Phase 4 (as well as future phases), to offer homes available as a 're-let' - i.e. homes in earlier phases, managed by Notting Hill Genesis, which were newly built as part of the Woodberry Down development, and have been vacated by the previous tenant.
- 6.21. In relation to progressing vacant possession of Phase 4, an exhibition is planned for Spring 2022, to which all residents of Phases 4 and 5 will be invited. This event will start the rehousing process, by providing information and the opportunity to ask questions about the process; enabling residents to find out more about the timescales; setting out the tenants' choice options for the new homes; and, informing tenants how they will be offered support in identifying a new home, and in moving.
- 6.22. An officer from the Decant Team will remain in close contact with residents throughout the re-housing process. The aim is to pre-allocate the Phase 3 homes during 2022. If not all the homes are accepted by Phase 4 and 5 tenants, then the remaining homes will be offered to the later phases. As with all allocations in Woodberry Down the priority for being allocated a new home is first by phase, followed by tenancy start date, and this same approach would be used.
- 6.23. Leaseholders in Phase 4 will also be invited to a presentation, to provide information about the proposed buy-back process, residents' rights and how they can be supported, and the process for negotiation. Information about timescales and the CPO process will also be clearly explained. Officers from the Woodberry Down Regeneration team will continue to engage with individual leaseholders and provide a point of contact for these residents.

- 6.24. In relation specifically to the preparation of a CPO, residents and stakeholders will be notified about the preparation to make a CPO. The Council will stress that the objective is to reach agreement by negotiation and that the Council's CPO powers would only be used as a last resort. All residents, including tenants, will need to be referenced and included in the draft CPO schedules for completeness.
- 6.25. Furthermore, in relation to the CPO, an EqlA will be prepared as described in 6.12, above. This will include inviting residents in Phase 4 to complete a survey, and will provide a point of contact for residents. The EqlA will help to identify vulnerable residents and ensure there is appropriate support in place.
- 6.26. Finally, the development of a new Masterplan is currently underway. This involves on-going engagement with residents and stakeholders throughout Woodberry Down, including meetings every three weeks with the Design Committee, updates to the WDCO Board each month, and at the Round Table. In Summer 2021 an extensive engagement exercise was undertaken about what people liked and didn't like about the area, in the context of the on-going regeneration. 559 residents responded via a survey, and two drop-in meetings were held for residents to discuss issues further.
- 6.27. A digital on-line tool is being used to share the emerging Masterplan and capture feedback from residents. In Summer 2022 further engagement with residents will take place about the Masterplan proposals. Detailed consultation will also take place about the designs for Phase 4.

Risk Assessment

- 6.28. Acquisition of existing homes to achieve vacant possession in accordance with the PDA is identified within the Risk Register for the project. The purpose of serving the Initial Demolition Notices and of awarding Decant Status is to ensure a timely decant and to reduce risk to the Council and the project.
- 6.29. Timely negotiation with leaseholders and freeholders is required to ensure that properties can be acquired as far as possible without the need to use a CPO. However, if necessary, the Council will seek to make and have confirmed a CPO in line with the PDA. Failure to meet the PDA requirements would result in financial loss and the stalling of the redevelopment.
- 6.30. The Council's CPO powers are in themselves an important risk management tool. The authority to progress the use of these powers ensures that, where negotiations to buy-back leasehold/freehold interests by agreement have been unsuccessful, the Council can achieve vacant possession in a timely manner and avoid the risk of delay in delivering the regeneration programme. Such a delay would have financial and resource implications, as well as having a negative impact on residents.

- 6.31. The exercise of CPO powers can be controversial and the Council will manage potential risk through continued consultation and engagement with affected residents and stakeholders.
- 6.32. Payment of home loss and disturbance payments to out-of-phase tenants incurs the risk to the Council that these funds would not be reimbursed under the PDA, should the relevant future phase of the regeneration fall away. As described above this is usual practice, but the number of tenants involved in allocating Phase 3 homes may mean that these costs are significant. However, as long as the regeneration continues, these costs will be reimbursed in due course, and encouraging early moves by tenants from later phases helps to reduce the risk and costs involved with vacant possession of later phases.

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

- 7.1. Decant status and serving of the demolition notice will prevent any further purchase of homes under the RTB, and instigate the rehousing of tenants in Phase 4 blocks. The rehousing process provides tenants with home loss and disturbance payments, to offer compensation for and cover the costs of moving.
- 7.2. The process to start negotiations with the remaining leaseholders and freeholders in Phase 4 will commence. There are currently 42 remaining leasehold properties, which will be required to be repurchased to achieve the vacant possession of Phase 4, ready for redevelopment. These funds will be reimbursed under the terms of the PDA, via the CPO Indemnity Agreement/equivalent. The cost has not yet been confirmed, but homes are expected to be valued at approximately £400,000 per unit, making the total value approximately £16.8m. Leaseholders are also entitled to compensation payments, under the terms of the Leaseholders' Offer Document.
- 7.3. The costs set out in 7.2 will be reimbursed under the terms of the PDA, via a CPO Indemnity Agreement (or equivalent assurance if the agreement is to be provided in advance of the planning consent for Phase 4, as set out in 4.20 and 4.21).
- 7.4. Compensation payments to tenants normally take place once the tenant has moved into their new home, and compensation payments to leaseholders upon completion of the purchase of the property. Compensation payments to tenants in Phase 4 will also be reimbursed under the terms of the PDA/CPO Indemnity Agreement (or equivalent).
- 7.5. Compensation paid to out-of-phase tenants will be reimbursed under the terms of the PDA, when the relevant phase commences.

8. VAT Implications on Land & Property Transactions

- 8.1. The cost of the demolition of the property and rebuilding of new dwellings will predominantly be zero rated.
- 8.2. Where the Council buys back properties where tenants have bought long leaseholds under the right to buy, no VAT will be charged to the Council.

9. COMMENTS OF THE GROUP DIRECTOR OF LEGAL AND GOVERNANCE SERVICES

Preparation of a CPO and Compensation

- 9.1. The making of a CPO under S226 (1) (a) of the Town and Country Planning Act 1990 and the Acquisition Act is an executive function and therefore one which Cabinet may exercise.
- 9.2. Assembling the land for Phase 4 of the regeneration of Woodberry Down includes the land shown on the plan at Appendix 1.
- 9.3. Section 226 of the Town and Country Planning Act 1990 enables a local authority to exercise its compulsory purchase powers:
 - i. If it considers that acquiring the land in question will facilitate the carrying out of development, redevelopment, or improvement on or in relation to, the land being acquired (S226 (1) (a); and*
 - ii. provided that it considers that the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of its area (S226 (1A)).*
- 9.4. The Council is proposing to prepare the necessary legal and other documentation required to make a Compulsory Purchase Order for Phase 4.
- 9.5. If Cabinet resolves to prepare the necessary legal and other documentation required to make a Compulsory Purchase Order for Phase 4, a further report will need to be submitted to Cabinet to confirm the making of the Phase 4 Compulsory Purchase Order.
- 9.6. It may be possible for the Council to acquire all the legal interests set out in Section 4.14. Compensation may be negotiated between the Council and the party from whom the interest is acquired.

Demolition and Decant

- 9.7. Section 39 of the Land Compensation Act 1973 places an obligation on the Council to rehouse any resident who is displaced from their home by the Council exercising its compulsory purchase powers if no suitable alternative

residential accommodation on reasonable terms is available.

- 9.8. The Council has and intends to continue to work closely with all residents affected to identify suitable alternative accommodation for them.
- 9.9. If, however, a situation arises that a resident is unable to find suitable alternative residential accommodation on reasonable terms then case law has held that providing temporary accommodation and placing a person's name on the housing list would be sufficient to discharge the obligation to rehouse placed on the Council by Section 39 of the Land Compensation Act 1973.
- 9.10. 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 the 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.
- 9.11. 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.
- 9.12. 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.
- 9.13. 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.

Buy-back of Properties Out of Phase

- 9.14. The buy-back of premises out of phase is permitted under S120 of the Local Government Act 1972. This section enables the Council to acquire by agreement any land for the purposes of discharging any of the Council's functions or for the benefit, improvement or development of its area. The Council may exercise this power whether or not the land purchased by agreement is not immediately required for the intended purpose and the Council may use the purchased land in the interim for the purpose of discharging any of its other functions.

- 9.15. Under Section 1 of the Localism Act 2011, the general power of competence, the Council has power to do anything that individuals with full capacity generally may do.

APPENDICES

Appendix 1 - redline plan of Phase 4.

Appendix 2 - 2016 Phasing Plan for Woodberry Down

EXEMPT

None

BACKGROUND PAPERS

None

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