

Title of Report	Woodberry Down Principal Development Agreement Updates	
Key Decision No	CHE 112	
For Consideration By	Cabinet	
Meeting Date	18 July 2022	
Cabinet Member	Mayor Philip Glanville	
Classification	Open with Exempt Appendix	
Ward(s) Affected	Woodberry Down	
Key Decision & Reason	Yes	Result in the Council incurring expenditure or savings which are significant having regard to the Council's budget for the service / function
Implementation Date if Not Called In	26 July 2022	
Group Director	Stephen Haynes, Strategic Director Economy, Regeneration and New Homes	

1. Cabinet Member's introduction

- 1.1. Our core priority for Woodberry Down has always been to deliver a brand new, high-quality home for social rent for every Council tenant, replacing the existing outdated buildings that sadly no longer meet modern standards.
- 1.2. We're delivering on that promise - since 2009 we've completed over 500 new social rent homes, with 117 more under construction and detailed plans for a further 90 currently being consulted on in the next phase of the transformation of the estate, which will also include a new town square for the estate.
- 1.3. But regeneration is about more than bricks and mortar. In that time we've also created a brand new secondary school, reopened the stunning Woodberry Wetlands, and delivered a range of high-quality new public spaces and community facilities. Earlier this year work began on the transformation of the Woodberry Down Children's Centre, while plans are being progressed for the letting of a brand new community space at the heart of the estate overlooking Spring Park.
- 1.4. This report outlines the arrangements needed to continue this record of delivery at Woodberry Down in the years ahead and sits alongside the community consultation already underway on Phase 4. The recommendations will ensure we progress the next phase of the regeneration and the vital new social rent homes for existing families; update the Woodberry Down masterplan to complete the comprehensive regeneration and the benefits it can bring; and ensure the creation of a Council-led community space in the heart of the estate in the building known as block D.
- 1.5. Crucially, this will continue to be done together in 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 - an arrangement that will continue as we ensure the local community is first to benefit from the changes taking place.
- 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, together with place-making and spaces to benefit the whole community. 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 current masterplan for Woodberry Down (Phases 2-8) was approved in 2014. At the end of 2019, following submission of the planning application for Phase 3, the delivery partners agreed that it would be appropriate to review the masterplan for Phases 4-8 at Woodberry Down.
- 2.2. This process commenced in Autumn 2020, with the intention of submitting a revised masterplan in June 2022 for Phase 4 in detail and Phases 5 to 8 in outline. It has become clear that the programme for the submission of a full masterplan application is no longer achievable. The partners have therefore agreed to bring forward a standalone application for Phase 4 by November 2022, in order to ensure the continuity of delivery of new homes at Woodberry Down. A Masterplan application for Phases 5-8 in outline will then follow once Phase 4 has been submitted.
- 2.3. This Cabinet Report seeks authority to enter into a Side Letter with Berkeley Homes, which will set out the stages and timeframes to progress the masterplan for Phases 5-8. It also seeks authority to enter into a variation to the agreed form of CPO Indemnity Agreement (CPOIA) for Phase 4, which will enable the programme for vacant possession to be brought forward in line with the delivery programme.
- 2.4. Finally, authority is also sought to vary the Principal Development Agreement (PDA) and enter into a Supplemental Agreement to the PDA for Phase 2. The Variation to PDA and the Supplemental Agreement capture the legal agreements relating to Block D, the community space that has been delivered in Phase 2.

3. Recommendations

- 3.1. **Authorise entering into a Side Letter to the Woodberry Down Principal Development Agreement (Phases 2-8) with Berkeley Homes and Notting Hill Genesis.**
- 3.2. **Authorise (i) the variations to the Woodberry Down Development Compulsory Purchase Order Indemnity Agreement (as set out in Schedule 7 of the Principal Development Agreement) for Phase 4 with Berkeley Homes as set out in this Report; and (ii) entering into such Compulsory Purchase Order Indemnity Agreement on such terms as are agreed between the parties.**
- 3.3. **Delegate authority to the Group Director of Climate Homes and Economy and Group Director of Finance and Corporate Resources to agree to the market value purchase with vacant possession of leasehold properties in Phase 4 of the Woodberry Down regeneration,**

and the award of compensation to the leaseholders affected by the purchase.

- 3.4. Authorise entering into the Fifth Deed of Variation to the Woodberry Down Principal Development Agreement (Phases 2-8).
- 3.5. Delegate authority to the Group Director of Finance and Corporate Resources in consultation with the Mayor to enter into the Block D Supplemental Agreement to the Woodberry Down Principal Development Agreement (Phases 2-8).
- 3.6. Delegate authority to the Group Director of Climate Homes and Economy to approve any further necessary variations to the Principal Development Agreement (Phases 2-8).
- 3.7. Authorise the Director of Legal Democratic and Electoral Services to prepare, agree, settle and sign the necessary legal documentation to effect the proposals contained in this report and to enter into any other ancillary legal documentation as required.

4. Reason(s) for decision

Side Letter to the Principal Development Agreement

- 4.1. The Side Letter between Berkeley Homes and the Council will enable the regeneration of Woodberry Down to continue to progress in line with the target delivery programme, and will therefore ensure the delivery of much needed high quality homes.
- 4.2. The partners agree it is appropriate to carry out a review of the masterplan, which was approved in 2014, however there is not sufficient time to progress a hybrid application for Phases 4-8 without delaying the target start on site date for Phase 4. The Side Letter will therefore enable the partners to bring forward a standalone planning application for Phase 4, with a clear timetable and process in place for agreeing a revised masterplan.
- 4.3. The separation of Phase 4 from the masterplan will also allow more time to consult and develop the wider masterplan; work on which will commence once the Phase 4 application has been submitted.
- 4.4. The Side Letter sets out the process for agreeing a new masterplan including the key stages and target timetable for submission. The document is still in draft form, however further details on the principles of the legal agreement are included in exempt Appendix 1. As this agreement will be a Deed, Cabinet authority is sought for the Council to enter into it.

CPO Indemnity Agreement (Variation to the Agreed Form)

- 4.5. On 28 February 2022, as part of a wider report seeking authority to commence preparations to make a Compulsory Purchase Order (CPO) for Phase 4, Cabinet approved the commencement of negotiations with leaseholders in Phase 4 to buy back their properties. The purchasing of leasehold properties is a critical step in achieving vacant possession, which is necessary to enable the redevelopment of Woodberry Down to progress.
- 4.6. The previous Cabinet Report set out that purchases and compensation would not be completed and paid until the Council had entered into a CPO Indemnity Agreement (CPOIA) with Berkeley Homes, to indemnify the Council against all of the costs involved in achieving vacant possession of the phase.
- 4.7. Under the terms of the PDA, the Council enters into a CPOIA further to planning consent being achieved and a successful (or waived) post-planning viability test (an agreed form of the CPOIA is included in Schedule 7 of the PDA). This trigger point is currently expected to be reached in summer 2023, however Berkeley Homes are targeting an earlier start on site for Phase 4, which would require the Council to achieve Vacant Possession by January 2025.
- 4.8. There are currently 41 leasehold properties remaining in Phase 4. Waiting until summer 2023 would allow just eighteen months to complete all property purchases before the scheduled demolition date. It is therefore recommended that the process of buying back properties commences sooner - in order to ensure the continuity of delivery of new homes.
- 4.9. Under the terms of the PDA the Council could progress and complete buy-backs from leaseholders without a CPOIA in place (and other activities related to vacant possession). While the Council's costs involved with this would ultimately be recouped by the CPOIA, once entered into, they would only be repaid if Phase 4 proceeded, and these costs would therefore be incurred at risk to the Council.
- 4.10. The Council and Berkeley Homes have therefore agreed to enter into a variation to the agreed form of the CPOIA for Phase 4 which would allow the programme for vacant possession to be brought forward.
- 4.11. This variation to the agreed form of the CPOIA will indemnify the Council against 50% of all of the 'Relevant Expenses' for Phase 4 (primarily the compensation payments paid to leaseholders over and above the purchase price of the properties, as well as any professional fees incurred), in the unlikely circumstance that Phase 4 does not come forward (i.e. a satisfactory planning permission is not received, or the phase is not viable). Berkeley Homes would not compensate the Council for the purchase price of the

properties, however the properties would remain as an asset in Council ownership to be managed as appropriate.

- 4.12. If Phase 4 does proceed as expected, the usual PDA process will apply, and Berkeley Homes will reimburse the Council for all land assembly costs incurred (including any third party property purchases) on the trigger date as set out in the PDA. The document is still in draft form, however further detail on the principles of the CPOIA is included in Exempt Appendix 1.
- 4.13. The Council has already begun to purchase properties back in Phase 4 on an 'out-of phase' basis. To date fifteen properties in Phase 4 have been re-purchased. As these were early buy-backs, no compensation was paid to leaseholders. The variation to the CPO indemnity will enable the Council to negotiate with the remaining 41 leaseholders, who will be eligible for compensation payments.
- 4.14. The Council's preference is always to reach agreement by negotiation with leaseholders and freeholders regarding the buy-back of their properties, however it is recognised this may not be possible in all cases. In such cases, the Council would need to exercise its compulsory purchase powers in order to acquire the properties, as well as any other rights and interests together with adjoining roads and any private rights, including utilities, within the redline boundary of the property. Without the exercise of such powers, vacant possession of the Phase cannot be guaranteed and this could cause delays to the regeneration programme.
- 4.15. A further report will be submitted to Cabinet in due course to request authorisation to make a Compulsory Purchase Order for Phase 4.

Block D Community Facilities - Deed of Variation to the PDA and Supplemental Agreement to the PDA

- 4.16. Block D is a residential block in Woodberry Down, which was completed in early 2021. The ground floor area was initially designed to be used as a private gym and swimming pool for residents.
- 4.17. In 2017 the Council and the Woodberry Down Community Organisation (WDCO) objected to this proposed ground floor use as not being tenure blind or supporting the delivery of a mixed community. Subsequent negotiation with Berkeley Homes resulted in the ground floor being redesignated as a community space for the wider Woodberry Down community.
- 4.18. A set of principles relating to Block D were agreed, which are captured in the Deed of Variation to the PDA (Phases 2-8) and the Supplemental Agreement to the PDA (Phases 2-8). This includes that the space (approximately 1,000 sqm) will be leased to the Council at a peppercorn rent. The eventual use for the space in Block D must serve the community and meet the definition below:

‘Any uses which the London Borough of Hackney or any statutory successor shall reasonably designate shall be for the benefit of the local community and/or any parts of the local community including (without limitation) use as a community centre, care centre, local advice centre, nursery, crèche, health centre, medical centre, doctors or dentists surgery, housing management or advice centre, job clubs, education and/or training centre, use as meeting rooms, clubs, sports, social and other facilities for local residents generally and specific sections of the community including young people, parents and carers, children, toddlers and the elderly.’

- 4.19. The Supplemental Agreement establishes that overall the community space must remain cost neutral to the regeneration partners. The Council must not take any surplus from letting the units, and if a surplus arises it must be reinvested back into Woodberry Down. The details of the cost involved will be brought to the Group Director of Finance and Corporate Resources for approval before entering into the agreement.
- 4.20. Further details on the legal agreements are included in Exempt Appendix 1.
- 4.21. The Council has two years and six months from Practical Completion (PC) of the building to instruct the lease from Berkeley Homes. PC was achieved in March 2021 and the Council has until September 2023 to draw down the lease.
- 4.22. A draft lease is appended to the Supplemental Agreement, negotiated by the Council’s Strategic Property Services (SPS). Due to the length of the lease, SPS will seek separate Cabinet or equivalent authority to enter into it.
- 4.23. The Council is committed to working with WDCO and the regeneration partners to agree a use for the building. A Working Group including WDCO, Berkeley Homes, Notting Hill Genesis and the Council has overseen feasibility and marketing for Block D, and is in the process of reviewing proposals. The Council will seek to agree the approach to Block D with the Working Group, with input from the wider community where possible.
- 4.24. Cabinet authority is sought to vary the PDA and to enter into the Supplemental Agreement in relation to Block D.

5. Details of alternative options considered and rejected

Side Letter to the PDA

- 5.1. The Council could choose to not enter into a Side Letter, and allow Berkeley Homes to bring forward separate planning applications for the future phases, including Phase 4, however, having a current masterplan in place is a fundamental principle for Woodberry Down.

- 5.2. Entering into the Side Letter will ensure that a target programme for the submission of the masterplan application is followed, and the key stages for progressing it are agreed. For this reason, the alternative of not entering into a Side Letter was rejected.

CPO Indemnity Agreement

- 5.3. The Council is not legally obliged to start buying back leasehold properties until the triggers set out in the PDA are reached. If, however, the Council waits until the CPOIA trigger point in the PDA is reached, there are three possible options, as set out below.
- 5.4. The first is that the Council continues to target vacant possession by January 2025. This would leave only 18 months to purchase all of the leasehold properties, and there is a risk that the Council would not be able to demonstrate that meaningful engagement with leaseholders had taken place in advance of the CPO. This could ultimately result in the CPO not being granted.
- 5.5. The second option is that the programme for Phase 4 would need to be extended to enable meaningful engagement to take place, which would result in the remaining Council tenants having to wait longer to move into a new home.
- 5.6. Alternatively, the Council could proceed with taking steps to achieve vacant possession in advance of entering into a CPOIA. This, however, would put the Council at financial risk should the phase not come forward. The proposed varied form of the CPOIA will mitigate against this risk.

Block D Community Facilities - Deed of Variation to the PDA and Supplemental Agreement to the PDA

- 5.7. Cabinet authority is required to enter into the Fifth Deed of Variation to the PDA and the Supplemental Agreement.
- 5.8. The Supplemental Agreement sets out how occupants of Block D should be selected, noting that the Council must agree this with Berkeley Homes, with the input of WDCO and Notting Hill Genesis. Should the Council decide to enter into the Supplemental Agreement and not draw down the lease for the space, it would have no further say over how the property would be used.

6. Background

Overview

- 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 Agreements (PDAs).
- 6.3. The PDAs are the contracts that exist between the London Borough of Hackney and Berkeley Homes (North East London Limited). There are two PDAs; PDA Phase One and PDA Phases 2 to 8 (originally known as Phases 2 to 5). Notting Hill Genesis Housing Association is also a party to the Phase 2 to 8 PDA.
- 6.4. Approval to enter into the PDA for Phases 2-8 was granted by Cabinet in 2010. 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).
- 6.5. 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.
- 6.6. 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.
- 6.7. Under the 2014 masterplan, 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.
- 6.8. Construction started at Woodberry Down in March 2009, and the first residents moved into their new homes in 2011. So far 2,317 homes have been completed, of which 537 are for social rent and 350 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.
- 6.9. A review of the 2014 masterplan is currently underway. It is intended that Phase 4 will be submitted as a standalone detailed planning application in November 2022, with the masterplan for Phases 5-8 to follow (subject to the Side Letter and CPOIA being entered into).

- 6.10. 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.

Policy Context

- 6.11. 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 strategy sets out five priority areas, and the regeneration of Woodberry Down, will assist in realising this vision.
- 6.12. The first priority seeks to create areas where everyone can enjoy a good quality of life and where the whole community can benefit from growth. The Woodberry Down development will provide a mix of homes including homes for social rent, shared ownership and shared equity, as well as privately owned homes. This mix provides for a range of needs. The new community places and spaces have been designed for and in agreement with the existing community, in order to meet their needs while also being inclusive, welcoming and accessible to incoming residents, and supporting the development of a cohesive community.
- 6.13. Priority two relates to enabling businesses and all residents to participate in economic prosperity and community life. The construction of the Woodberry Down 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. New community spaces, including at Block D, seek to prioritise and where possible, support local business and community activity.
- 6.14. The Sustainable Community Strategy also prioritises environmental sustainability; this is a key part of the Woodberry Down development, which includes provision for a district heat network. A Low Carbon Transition Plan for Woodberry Down has recently been approved as part of the Phase 3 planning application, providing a framework for the design of the energy centre being constructed within Phase 3, as well as connections on future phases to low carbon energy sources.
- 6.15. The fourth priority of creating an open, cohesive, safer and supportive community will be achieved through the provision of improved landscaping and new play areas as part of the development, as well as offering employment and training.
- 6.16. 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.

- 6.17. In addition, the development of the new Woodberry Down masterplan references and strives to meet objectives from a number of Council policies. There is a stream of work to actively engage with young people, ensuring that younger peoples' voices are represented, aligning with the Child Friendly Places policy.
- 6.18. The Woodberry Down regeneration has delivered 887 affordable homes to date, of which 537 are for social rent. Phase 3, which is currently on site, will deliver 117 new homes for social rent and 126 shared ownership/equity homes at Woodberry Down. The current proposals for Phase 4 provide for a further 90 social rent and 117 shared ownership homes. The on-going delivery of homes for social rent and low cost home ownership helps to meet the need for additional affordable housing in the borough.

Equality Impact Assessment

- 6.19. 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.
- 6.20. 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 EqlA process, while 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 EqlAs.
- 6.21. In addition, a full EqlA is undertaken as part of the preparation of each Compulsory Purchase Order (CPO), and this will be undertaken for Phase 4. The report 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 any disadvantage for those affected and outline relevant mitigation strategies.

Sustainability and Climate Change

- 6.22. 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.
- 6.23. 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.

- 6.24. 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

- 6.25. Comprehensive and detailed consultation is an integral part of the delivery of the Woodberry Down regeneration. The detailed design for each phase is subject to full public consultation, and residents and WDCO (Woodberry Down Community Organisation) were engaged in an extensive consultation process during the development of the masterplan in 2014.
- 6.26. A Design Committee has been set up to provide comments on emerging design proposals for phases as they come forward. This is a group made up of representatives from WDCO, Berkeley Homes, Notting Hill Genesis and the Council, with six WDCO representatives formally part of the group. The Design Committee contributed directly to the development of designs for Phase 3 and is currently providing comments on the development of proposals for Phase 4. The Design Committee will also be involved in the masterplan for Phase 5-8.
- 6.27. Public consultation for Phase 4 launched on 13 June 2022 and is open for six weeks, with a number of exhibitions as well as the ability to view and respond online. The Design Committee agreed the approach to the consultation in advance of it being launched.
- 6.28. In relation to the rehousing programme, 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. This was followed up by Council officers, with visits and calls for Phases 4 and 5, as the information was key to the mix of homes being provided in Phase 3.
- 6.29. As well as confirming housing needs, this Survey gave tenants the opportunity to directly discuss the regeneration. Officers from the Rehousing Team will remain in close contact with tenants throughout the process of allocating homes in Phase 3 and supporting residents through the move. Tenants moving into Phase 3 of the regeneration will have the opportunity to choose from a number of different kitchens and bathrooms as well as wall colours, floor coverings and window dressings.

- 6.30. Leaseholders in Phase 4 will be contacted with an update about the regeneration and the intention for the Council to buy-back properties. A drop in session is scheduled for July, which will formally start the process of engagement with leaseholders. This will be followed by one-to-one engagement to progress valuations and provide an opportunity for leaseholders to discuss the buy-back process, and fully understand their options.
- 6.31. The Secure Tenant and Leaseholder offer documents are in the process of being updated and re-published, including details of the options and support available for residents.
- 6.32. In relation specifically to the preparation of a CPO, residents have been made aware that this process will begin, although 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. Information will be provided to residents as needed. In addition, an EqlA will be prepared alongside the Phase 4 CPO process. This will include inviting all 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.
- 6.33. The Woodberry Down regeneration benefits from an effective Independent Tenant and Leaseholder Advisor (ITLA) service. All aspects of public engagement are discussed with the ITLA, particularly in relation to ensuring the right mix of support is available for residents. The ITLA is a direct contact point for all residents who wish to seek support and advice independently of the Council.
- 6.34. In relation to Block D, the development of the approach to how the community space should be used has been co-produced with a Working Group involving three WDCO representatives as well as representatives of the other regeneration partners. The Group has overseen all aspects of the project and agreed next steps, and will continue to make recommendations to the Council on how to proceed. In addition, the project has been presented at the WDCO Board for feedback. Before the final mix of tenants is agreed it will be discussed with the Working Group and WDCO, with wider engagement as agreed.

Risk Assessment

Side Letter

- 6.35. The Side Letter is intended to mitigate the (low) risk to the Council of splitting the planning application for Phase 4 from the masterplan. Having a masterplan in place is a fundamental principle of the PDA. The Side Letter therefore seeks to set out a clear process and timeframe for submitting the

masterplan planning application, in order to reduce the risk of not having an agreed masterplan in place.

CPO Indemnity Agreement

- 6.36. Cabinet authority to enter into the CPOIA for Phase 4 and commence negotiations with leaseholders, leading to property purchases and payment of compensation, will mean that the Council is indemnified against 50% of the 'Relevant Expenses' costs. However, the Council will still be at risk of losing the remaining 50% if Phase 4 does not proceed. The Council will continue to work closely with Berkeley Homes and respond to any emerging concerns with viability.
- 6.37. Acquisition of existing homes and other third party ownerships to achieve vacant possession in accordance with the PDA is identified within the Risk Register for the project.
- 6.38. 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 delay the redevelopment.
- 6.39. 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.
- 6.40. 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. External legal advice will also be sought.
- 6.41. Homes which have already been bought back are, wherever possible, being used for Temporary Accommodation. This helps mitigate the costs being incurred by the Council.

Block D

- 6.42. Authority sought by this report is to enter the legal agreement setting out the parameters for the use of Block D. There is no direct risk associated with this, as it does not commit the Council to any course of action. If the Council chooses to pursue the use of Block D, which recent work undertaken assumes it will, some risks have been identified to ensure that the uses of the space provide sufficient income to cover the running costs, while also proving acceptable to the community. These risks are being monitored and

will form a part of any subsequent reports seeking authority from Cabinet to enter into the lease with Berkeley Homes.

7. Comments of the Group Director of Finance and Corporate Resources.

- 7.1. The report recommends buying back the leaseholders in Phase 4 of the Woodberry Down development, to achieve vacant possession to allow this phase of the redevelopment by Berkeley Homes. As the viability of this phase has not been finalised, and will be affected by the review of the masterplan, a CPO indemnity is required to protect the Council against the risk that the phase does not proceed or the CPO is unsuccessful.
- 7.2. The costs associated with the buy-backs are included in the HRA business plan and will be reimbursed at a later date when the CPO is complete and Berkeley Homes takes possession of the land. Therefore, the only financial risk is that the Phase does not progress. In this case the properties would need to be assessed, and it is likely that an alternative development would be taken forward and vacant possession would be required. In this situation the properties would still need to be purchased.
- 7.3. The report also includes a recommendation to sign a supplemental agreement for the block D community facility. The financial impact of this is still to be clarified, and so this decision has been delegated to the Group Director of Finance and Corporate Resources in consultation with the Mayor. The transfer of this space to a community facility could result in operational costs to the Council, depending on the lease model used.
- 7.4. It is noted at paragraph 4.18 above that the definition of community use is wide ranging and, therefore, there are opportunities to secure facilities that will be of benefit to the local population and not adversely impact on the viability and overage due to the Council for the Woodberry Down development.

8. VAT implications on land and 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.
- 8.3. In relation to the Community Facilities at Block D, any income received by the Council from any onward rental will be liable to VAT at the standard rate. On the basis that the Council will make onward taxable supplies from the site, any VAT that is charged by Berkeley Homes should be recoverable.

9. Comments of the Director of Legal, Democratic and Electoral Services

- 9.1. The acquisition of properties is pursuant to the Hackney Mayoral Scheme of Delegation of January 2022 and is reserved to the Mayor and Cabinet.
- 9.2. S120 of the Local Government Act 1972 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 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.
- 9.3. The proposed variations of the Principal Development Agreement (and Schedules) in this Report are permitted under Regulation 72(1)(e) of the Public Contracts Regulations 2015 which allows a variation where modifications, irrespective of their value, are not substantial. The variations to the Principal Development Agreement in this Report are not substantial within the meaning of the word as defined in the Regulation and therefore are allowed.
- 9.4. Paragraph 2.2 i) of the Cabinet Procedure Rules states that "if the Elected Mayor delegates functions to the Cabinet, unless they direct otherwise, then the Cabinet may delegate further toan officer.....". Therefore, subject to the approval of Cabinet, the Group Director of Climate Homes and Economy is permitted to approve any further necessary variations to the documentation set out in paragraph 3.6.
- 9.5. Paragraph 2.2 i) of the Cabinet Procedure Rules states that "if the Elected Mayor delegates functions to the Cabinet, unless they direct otherwise, then the Cabinet may delegate further toan officer.....". Therefore, subject to the approval of Cabinet, the Group Director of Finance and Corporate Resources is permitted to enter into the Block D supplemental Agreement to the Woodberry Down Principal Development Agreement (Phases 2-8) set out in paragraph 3.5.

Exempt Appendix

Exempt Appendix 1 - Legal Summary

By Virtue of Paragraphs using Part 3 of schedule 12A of the Local Government Act 1972 this appendix is exempt because it contains information relating to the financial or business affairs of any particular person including the authority holding the information and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Background documents

None

Report Author	Isobel Pierce Interim Head of Regeneration (Woodberry Down) Isobel.Pierce@hackney.gov.uk 020 8356 7523
Comments for the Group Director of Finance and Corporate Resources prepared by	Deidre Worrell Director of Finance, Climate Homes and Economy deidre.worrell@hackney.gov.uk 020 8356 7350
Comments for the Director of Legal, Democratic and Electoral Services prepared by	Georgia Lazari Team Leader (Places) Georgia.Lazari@Hackney.gov.uk 020 8356 1369 Patrick Rodger Senior Lawyer Patrick.Rodger@Hackney.gov.uk 020 8356 6187