

	MAYOR AND CABINET		Item no.
<b>Report Titles</b>	Heathside & Lethbridge Phase 5 & 6 Decant Update		
<b>Key Decision</b>	Yes		
<b>Ward</b>	Blackheath		
<b>Contributors</b>	EXECUTIVE DIRECTOR FOR CUSTOMER SERVICES, EXECUTIVE DIRECTOR FOR RESOURCES & REGENERATION, HEAD OF LAW		
<b>Class</b>	Part 1	Date	11 November 2015

## 1. Summary

- 1.1 On 25 June 2003 Mayor and Cabinet agreed the proposal to expand Lewisham's established estates regeneration programme to include Heathside and Lethbridge. Following the outcome of the open competition, on the 22 February 2006 Mayor and Cabinet agreed that Family Mosaic become preferred development partner for the re-development of Heathside and Lethbridge.
- 1.2 This report is seeking approval to proceed with the next stages of the decant programme for the established regeneration scheme on the Heathside and Lethbridge estate.
- 1.3 Heathside and Lethbridge is an ongoing regeneration scheme being carried out in partnership with Family Mosaic. All residents in Phases 1 – 4A&B have been re-housed and the re-housing of tenants in Phase 5 is underway. This report seeks authority to commence the Phase 6 decant in stages with some residents having the opportunity to be re-housed in some of the new homes in Phases 3 and 4 and some being re-housed off the estate. The remainder of the Phase 3 new social homes are expected to be complete in the winter of 2016/17. The Phase 4 new homes are expected to be complete in the winter of 2017/18. This report includes information following the consultation that has been carried out with residents on these proposals.

## 2. Purpose of Report

- 2.1 To update Mayor and Cabinet on the progress of the Heathside and Lethbridge regeneration scheme.
- 2.2 To ask the Mayor to consider the responses from residents to the formal Section 105 consultation carried out on Lethbridge Close and to agree to commence the Phase 6 decant.

## 3. Policy Context

- 3.1 The re-development scheme contributes to key national objectives, particularly meeting the decent homes standard and increasing the supply of affordable housing.

The Decent Homes Strategy required all local authorities to carry out a stock options appraisal by July 2005 to determine how Decent Homes will be achieved for all Council housing stock.

- 3.2 Lewisham completed its stock options appraisal in June 2005 and submitted a comprehensive Decent Homes strategy to Government Office for London (GoL) setting out an investment plan for the entire housing stock to meet the Decent Homes standard.
- 3.3 The re-development will see the replacement of non decent or unusable homes with modern high quality homes in well designed neighbourhoods. In addition, the scheme will deliver additional affordable units and a new supply of private sale units.
- 3.4 The scheme supports the Sustainable Community Strategy 2008 – 2020 especially the priority outcomes Reducing inequality – narrowing the gap in outcomes for citizens; Clean, green and liveable – where people live in high quality housing and can care for and enjoy their environment and Dynamic and prosperous – where people are part of vibrant communities and town centres, well connected to London and beyond.
- 3.5 Further, the re-development scheme is in line with Lewisham's established housing policy as set out in previous reports to Mayor and Cabinet and also contributes significantly to the Councils Housing Strategy for 2015 – 2020 'Building the homes our residents need'.

#### **4. Recommendations**

It is recommended that the Mayor:

- 4.1 notes the progress of the Heathside and Lethbridge regeneration scheme;
- 4.2 having considered the responses to the statutory Section 105 consultation, agrees that the Council should carry out the decant of Heathside and Lethbridge Phase 6 tenants.
- 4.3 Subject to the Mayor agreeing recommendation 4.2, the Mayor is recommended to agree that:
  - 4.4 where necessary, Notice of Seeking Possession is served and possession proceedings brought against secure tenants in Lethbridge Close Phase 6 blocks under ground 10 of Schedule 2 to the Housing Act 1985;
  - 4.5 secure tenants in Lethbridge Close Phase 6 blocks are re-housed in line with section 7 of this report;
  - 4.6 home loss and disturbance payments are made to displaced secure tenants and leaseholders where appropriate in accordance with the Land Compensation Act 1973

## **5. Summary of progress to date**

### **5.1 Summary of the principles of the Heathside and Lethbridge regeneration and progress to date:**

- The Council has an overarching Development Agreement in place with Family Mosaic for the whole scheme which includes a bespoke financial model.
- Family Mosaic have outline Planning permission for the overall scheme and are required to seek detailed Planning approval for each Phase. A building contractor is sought by Family Mosaic for each Phase.
- The GLA (formerly the Homes and Communities Agency) have committed around £30m in support of the regeneration of Heathside and Lethbridge across Phases 1 – 4.
- The structure of the scheme is that the Council forward funds the cost of obtaining vacant possession of the site and these costs are reimbursed by Family Mosaic. To date the land assembly costs have been paid for Phases 1, 2, 3 and half the land assembly costs have been paid to the Council for Phase 4 with the remainder due on completion of the demolition. The same will happen in future phases of the scheme.
- Of the 200 homes for social rent currently built, around 170 are occupied by residents of the original Heathside and Lethbridge estate. Five resident leaseholders have bought into the development through shared equity.
- Phase 1: 138 homes were built between August 2010 and October 2012. This includes 80 homes for social rent, the rest being for sale and shared ownership.
- Phase 2: 190 homes were built between January 2011 and April 2013, including 70 for social rent. Of these, 50 form a designated over 55's block designed to replace an over 55's block on the original estate.
- Phase 3: Started on site in August 2013 with the first stage of 49 social rent homes now complete and occupied. The remaining homes are expected to be complete in stages during 2016 – 2017. This is 11 months later than previously reported. The build delay has been due to awaiting the moving of statutory service. There will be a further 49 homes for social rent, 8 for shared equity and 112 for sale.
- Phase 4: Vacant possession of Phase 4A and 4B has now been achieved. The land will be transferred to Family Mosaic once demolition is complete. Demolition is due to be commenced before the end of the year. Phase 4A includes 169 total units made up of 54 for rent, 4 for shared equity and 111 private sale and are expected to be complete in late 2017. Phase 4B contains 67 units, all of which are for social rent and are expected to be complete by early 2018.
- On 14 January 2015 the Mayor and Cabinet approved the voluntary buyback of leaseholders in the remaining phases. External valuers have now been appointed so that negotiations can commence with the remaining 27 leaseholders.

## **6 Scheme Proposals and Features**

### **6.1 The overall scheme is to be carried out in broadly the same way as previously set out to Mayor and Cabinet on 25th March 2009. Key points are:**

- The scheme will provide a minimum of 543 (46%) affordable homes (an uplift of 127

affordable homes), this includes 416 homes for rent (an uplift of 31 rented units).

- This means there will be enough homes for all secure tenants and leaseholders who wish to remain as well as additional affordable properties.
- All of the homes will meet the lifetime homes standard and all affordable rented homes will meet the code for sustainable homes level 4. There will be the required 10% wheelchair accessible or adaptable homes across the whole site. Homes from Phase 3 onwards meet space standards set out in the London Plan (and previously were Parker Morris standards).
- A multi function community centre will also be provided.
- The overall scheme will provide around 1192 units.
- Family Mosaic operate at target rent levels and decants are offered lifetime tenancies.

6.2 It has always been a key feature of the scheme that should the housing market improve throughout the life of the programme, private units will be built as part of future phases in order to reduce the amount of grant required and diversify tenure. There are 62 sale units in Phase 2, 112 in Phase 3 and 111 in Phase 4. Further sale units are envisaged throughout the later Phases, depending on the housing market. Family Mosaic have had significant success over recent years in sales of private and shared ownership units and are prepared to take the risk on building these units. Interest and sales in sales units to date has been very positive. There is a fixed number of affordable rented homes across the scheme to make sure that all current residents can be re-housed in the new development and ensure an increase in affordable homes.

6.3 The terms of the Development Agreement are that should the scheme provide private sale units, any income into the scheme is carried over into the next phase to improve financial viability. At the end of the scheme, any remaining surplus is to be split between the HCA and Council on a 60/40 basis with any money received by the Council being treated as a deferred payment for the land.

## **7 Section 105 Consultation and Re-housing Proposals**

7.1 The Council and Family Mosaic have continually sought to ensure that the decant process is carried out as quickly and efficiently as possible and that existing residents receive priority for the new homes. This requires a flexible approach from the Council responding to the build programme and the speed of decant is affected by the number of residents who choose to move away from the estate or into the new build.

7.2 As there were more properties available in Block A of Phase 3 than required for the residents of Melville House (Phase 4b) the Council has been able to allocate properties to secure tenants from Lethbridge Close blocks 57-106, 107-134, 135-162 and 163-190 in Phase 5 of the scheme. 28 households from Phase 5 have been housed into Block A.

7.3 In addition, 7 Phase 6 residents were also allocated housing in Block A. This was only done where there was no further demand from Phase 5 residents and was done to ensure that Heathside & Lethbridge residents are given preference for the new builds. All but 1 property in Block A was allocated to Heathside & Lethbridge decants. Only households without a vehicle were allocated properties as there is no designated resident parking.

- 7.4 There will be approximately 170 new rented homes being built and ready for occupation in stages between 2017 and 2018. Priority for these will be given to the remaining Phase 5 decants.
- 7.5 As there are expected to be more properties available than required for the remaining Phase 5 decants the Council is able to start looking formally at re-housing tenants in Phase 6. This comprises Lethbridge Close blocks 191-218 and 219-242.
- 7.6 Phase 5 decants will continue to have priority for the new properties in Phases 3 and 4. Phase 6 decants will be offered properties where there is no demand from Phase 5 decants.
- 7.7 It will only be necessary to re-house Phase 6 decants into Phase 5 new builds if the Council has been unable to meet the demand within Phases 3 and 4. Phase 5 is currently programmed to be ready in 2021.
- 7.8 The current proposed decant programme is as follows:

	Phase	Blocks	Estimated moving dates	Moving to
Current decant phase	5	Lethbridge Close Blocks: 57-106, 107-134, 135-162, 163-190	Between 2015 and 2018	Block A (Phase 3) Block E (Phase 3) Block F (Phase 4A) Block D (Phase 4B) and off estate
Current proposal	6	Lethbridge Close Blocks 191- 218, 219 – 242	Between 2016 and 2021	Block E (Phase 3) Block F (Phase 4A) Block D (Phase 4B) and off estate Block H (Phase 5) if necessary

- 7.9 There are 88 secure tenants remaining in Phase 5 and 36 tenants in Phase 6. Overall there are sufficient homes being provided in the new development, Parkside, to re-house all tenants remaining in Lethbridge Close. However as the homes will be built at different times, this affects when tenants will be able to be re-housed. Should there be more residents that wish to be re-housed in new build than there are the correct sized homes available at that time, the Council will prioritise people in housing need. This means that tenants who are overcrowded, under occupying or who have a medical reason to be re-housed will be re-housed into available new build first. This is in accordance with the Council's Allocations Policy.
- 7.10 All tenants will also have the option of moving elsewhere in Lewisham through the

Council's choice based lettings system Homesearch.

- 7.11 Where tenants are re-housed, the empty properties will not be re-let to secure tenants. These properties will either be used as temporary accommodation or for property guardians. Where the property is in a poor condition, it may be left vacant and secured with grills.

## **8 Section 105 Consultation**

- 8.1 Section 105 of the Housing Act 1985 provides that the Council must consult with all secure tenants who are likely to be substantially affected by a matter of housing management to which the section applies. The section specifies that a matter of housing management would include demolition of dwelling houses let by the authority under secure tenancies and that such consultation must inform secure tenants of the proposals and provide them with an opportunity to make their views known to the Council within a specified period. The section further specifies that before making any decisions on the matter the Council must consider any representations from secure tenants arising from the consultation. Such consultation must therefore be up to date and relate to the development proposals in question.
- 8.2 On Tuesday 8 September 2015 tenants were hand delivered the formal Section 105 consultation letter as well as a covering letter to explain the proposals and process. These letters gave tenants 21 days to respond in writing to the proposals.
- 8.3 This statutory consultation has been undertaken five times before (in January 2008, August 2009, November 2011, August 2012 and August 2014). As the Phase 5 decant process has minor changes from the previous Section 105 consultation which was carried out last year, Officers decided to once again carry out this formal consultation with them as well as all Phase 6 secure tenants. In all previous instances, the Mayor decided that there was general support for the scheme and agreed the overall decanting and demolition of Heathside and Lethbridge and proposals set out.
- 8.4 The Council has received 3 responses to the consultation proposals out of 124 possible remaining tenanted properties (a 2.5% response rate). As above, this consultation is the sixth formal consultation carried out over the duration of the scheme including a consultation in August 2014. In addition, the Council and Family Mosaic are in regular contact with residents providing updates on the scheme via newsletters, events, TRA and Steering Group meetings. This may explain the low response rate.
- 8.5 2 responses are from residents in Phase 5 with 1 being in favour of the proposals and 1 being neutral (having made no comments). 1 is from a resident in Phase 6 who expressed concerns at having to move and the type of property to be offered.
- 8.6 The response in favour of the proposal is generally complementing the work being carried out on the new build properties and the work of the Council's Decant Officers.
- 8.7 The main issues raised by the respondent expressing concern, was in relation to being offered a property similar to the property currently occupied and in the same area, retaining the Right to Buy, and in regards to the information supplied on the possibility of possession action if a move by agreement could not be reached. The Council has responded advising that a Decant Officer will be visiting shortly to assess households needs, preferences and options, that the Government are currently

considering extending the Right to Buy to Housing Association properties and that possession action would only be considered when all other options have been exhausted. The full responses to the consultation (with replies from Council Officers) have been made available in the Members room.

## **9 Leaseholders and Compulsory Purchase Order (CPO) Powers**

- 9.1 Resident leaseholders have the option of being bought back by the Council and moving away. They also have the option of buying again in the new development under the shared equity scheme with Family Mosaic. Five leaseholders in Phases 3 and 4 bought into and now live in new homes in Phases 1 and 2. The Council does not offer re-housing for non-resident homeowners or their tenants. In cases of financial hardship, the Council may offer to re-house resident leaseholders as tenants.
- 9.2 External valuers have been appointed to commence negotiations with the remaining leaseholders in Lethbridge Close. Due to the build programme and therefore timescales for vacant possession, Phase 5 leaseholders will remain the priority. There are 18 leaseholders in Phase 5 and 9 in Phase 6.
- 9.3 If leaseholders are bought back early, the Council will use the properties for temporary accommodation, saving costs on expensive nightly paid accommodation.
- 9.4 To date, no leaseholders from Phase 5 have been bought back. There have been two early leasehold buy backs in Phase 6.
- 9.3 As this scheme follows a development programme, it is anticipated that the Council will seek to put in place CPO powers and a report will come back to Mayor and Cabinet in due course.

## **10. Legal implications**

- 10.1 The Council has power under the Housing Act 1985 to acquire land for the provision of housing accommodation. This power is available even where the land is acquired for onward sale to another person who intends to develop it for housing purposes. The 1985 Act also empowers local authorities to acquire land compulsorily (subject to authorisation from the Secretary of State) but only where this is in order to achieve a qualitative or quantitative housing gain.
- 10.2 Section 84 of the 1985 Act provides that the Court shall not make a possession order of a property let on a secure tenancy other than on one of the grounds set out in Schedule 2 to the Act, the relevant ground in this case being ground 10.
- 10.3 Ground 10 applies where the local authority intends to demolish the dwelling house or to carry out work on the land and cannot reasonably do so without obtaining possession. The demolition works must be carried out within a reasonable time of obtaining possession.
- 10.4 Where the Council obtains possession against a secure tenant it is required to provide suitable alternative accommodation to the tenant. This is defined in the 1985 Act and requires consideration of the nature of the accommodation, distance from the tenants' family's places of work and schools, distance from other

dependant members of the family, the needs of the tenant and family and the terms on which the accommodation is available.

- 10.5 There is a more limited statutory re-housing liability for leaseholders whose properties are re-acquired by the Council under CPO or shadow of CPO powers. The duty imposed by Section 39 of the Land Compensation Act 1973 is to secure that any person displaced from residential accommodation is provided with suitable alternative accommodation where this is not otherwise available on reasonable terms. In order to facilitate early possession of properties which have been sold under the Right to Buy, Family Mosaic has a range of flexible options for resident leaseholders who wish to invest in a new home in the development.
- 10.6 In accordance with the Land Compensation Act 1973, secure tenants will be entitled to home loss and disturbance payments. Leaseholders will be entitled to receive market value for their properties as well as home loss and disturbance payments where appropriate in accordance with the Land Compensation Act 1973. In both cases, the Land Compensation Act 1973 provides for these payments to be made whether or not the secure tenant or leaseholder (as the case may be) gives possession by agreement rather than requiring a possession order or CPO to be obtained.
- 10.7 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 10.8 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 10.9 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 10.10 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:  
<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>



- 10.11 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
  2. Meeting the equality duty in policy and decision-making
  3. Engagement and the equality duty
  4. Equality objectives and the equality duty
  5. Equality information and the equality duty
- 10.12 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:  
<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## **11 Financial implications**

The financial implications are contained in the Part 2 report.

### **112 Human Rights Act 1998 Implications**

- 12.1 The Act effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions Members therefore need to have regard to the Convention.
- 12.2 The rights that are of particular significance to Members' decision in this matter are those contained in Articles 8 (right to home life) and Article 1 of Protocol 1 (peaceful enjoyment of possessions).
- 12.3 Article 8 provides that there should be no interference with the existence of the right except in accordance with the law and, as necessary in a democratic society in the interest of the economic well-being of the country, protection of health and the protection of the rights and freedoms of others. Article 1 of the 1<sup>st</sup> Protocol provides that no-one shall be deprived of their possessions except in the public interest and subject to the conditions provided for by law although it is qualified to the effect that it should not in any way impair the right of a state to enforce such laws as it deems necessary to control the uses of property in accordance with the general interest.
- 12.4 In determining the level of permissible interference with enjoyment the courts have held that any interference must achieve a fair balance between the general interests of the community and the protection of the rights of individuals. There must be reasonable proportionality between the means employed and the aim pursued. The availability of an effective remedy and compensation to affected persons is relevant in assessing whether a fair balance has been struck.
- 12.5 Therefore, in reaching his decision, the Mayor needs to consider the extent to which the decision may impact upon the Human Rights of estate residents and to balance

this against the overall benefits to the community which the redevelopment of Heathside and Lethbridge will bring. The Mayor will wish to be satisfied that interference with the rights under Article 8 and Article 1 of Protocol 1 is justified in all the circumstances and that a fair balance would be struck in the present case between the protection of the rights of individuals and the public interest.

- 12.6 It is relevant to the consideration of this issue, that should the scheme proceed all displaced secure tenants would be offered re-housing in accordance with the Council's re-housing policy. Resident leaseholders will be offered a range of flexible options to acquire a new home in the new development. The Council retains the discretion to enable resident leaseholders who cannot afford to purchase a new home to rent a home on an assured tenancy in order to prevent homelessness. Secure tenants will be entitled to home loss and disturbance payments. Leaseholders will be entitled to receive market value for their properties as well as home loss and disturbance payments where appropriate in accordance with the Land Compensation Act 1973.

### **13 Environmental Implications**

- 13.1 The new homes to be built will be more thermally efficient than the existing ones and will generate less greenhouse gases.

### **14. Implications for Law & Disorder**

- 14.1 The scheme will meet the police's Secured by Design standards and should lead to a reduction in crime and the fear of crime.

### **15. Equality Implications**

- 15.1 Mayor and Cabinet approved the Equalities Impact Assessment for the regeneration of Heathside and Lethbridge in November 2009 . Officers have since taken the new Equalities Analysis Assessment (EAA) additional categories into account in considering the impact of the regeneration scheme and regularly review the Impact Assessments to ensure that any equalities implications are considered. There are equalities implications in the decanting and re-building process and there will also be benefits in the completed scheme that will impact on some of the most disadvantaged in the community. The Council's approach to re-housing tenants means that all residents needs such as language and medical are individually taken into account.

### **16. Conclusion**

- 16.1 This report provides an update on scheme progress and seeks approval to proceed with decant processes to ensure timely continuation of the scheme.

### **17. Background papers and author**

- 17.1 There are no background papers to this report.
- 17.2 For more information on this report please contact James Ringwood, Strategic Housing on 020 8314 7944.