

Mayor and Cabinet			
Title	Excalibur Update		
Key decision	Yes	Item no	
Wards	Whitefoot		
Contributors	Executive Director for Customer Services		
Class	Part 1		

1 Purpose of report

- 1.1 To provide an update on the Excalibur Regeneration Programme and seek authority to serve initial demolition notices on secure tenants in Phases 4 and 5. The report also recommends that Lewisham Homes manage the remaining properties on the estate until all secure tenants have moved out as part of the regeneration programme.

2 Recommendations

- 2.1 It is recommended that the Mayor:
- 2.2 notes the update on the regeneration scheme which is contained within this report at sections 6,7 8 and 9
- 2.3 agrees to an application being made to the Secretary of State pursuant to paragraph 4(2) of Schedule 5A of the Housing Act 1985 to serve further Initial Demolition Notices on all secure tenants within Phase 4;
- 2.4 subject in the case of Phase 4 to the Secretary of State's consent being obtained, agrees that Initial Demolition Notices be served on all secure tenants within Phases 4 and 5 in order to suspend the requirement for the Council to complete right to buy applications for as long as the Notices remain in force;
- 2.5 having noted the results of the section 105 of the Housing Act 1985 consultation carried out with Council tenants as set out in section 11, agrees that the management of the remaining Council owned properties on the estate should be transferred to Lewisham Homes until the regeneration scheme is completed, and that the transfer should take place on or after 3rd April 2017.

3 Policy context

- 3.1 The contents of this report are consistent with the Council's policy framework. It supports the achievements of the Sustainable Community Strategy policy

objectives:

- Ambitious and achieving: where people are inspired and supported to fulfil their potential.
- Empowered and responsible: where people can be actively involved in their local area and contribute to tolerant, caring and supportive local communities.
- Healthy, active and enjoyable: where people can actively participate in maintaining and improving their health and well-being, supported by high quality health and care services, leisure, culture and recreational activities.

3.2 The proposed recommendations are also in line with the Council policy priorities:

- Strengthening the local economy – gaining resources to regenerate key localities, strengthen employment skills and promote public transport.
- Clean, green and liveable – improving environmental management, the cleanliness and care for roads and pavements and promoting a sustainable environment.

3.3 It will also help meet the Council's Housing Strategy 2015-2020 in which the Council commits to the following key objectives:

- Helping residents at times of severe and urgent housing need
- Building the homes our residents need
- Greater security and quality for private renters
- Promoting health and wellbeing by improving our residents' homes

4 Scheme Background and History

4.1 The Council has been working with residents on Excalibur on options for the estate for many years and also with L&Q as partner for the estate since 2006. The full history is detailed in earlier Mayor and Cabinet reports.

4.2 In November 2010 Mayor and Cabinet agreed that the Council proceed with the regeneration of Excalibur in partnership with L&Q. This followed on from extensive consultation including an independent ballot and Section 105 consultation. Key milestones in the project since this time are set out below.

- L&Q obtained planning permission in March 2012 (detailed for Phases 1 - 3 and outline for Phases 4 - 5);
- The Secretary of State consented to the disposal of the Phase 1 and 2 land under Section 233 of the Town and Country Planning Act 1990 in October 2013.
- The Council obtained vacant possession of the Phase 1 and 2 site in 2014. 33 tenants were re-housed. 7 freeholders were bought back and the Council obtained CPO powers to assist with this.
- L&Q and the Council jointly procured Contractor Denne who demolished Phases 1 and 2 during 2014.

- 4.3 There were delays to the project during 2013 – 2015. Complaints about the closure of the estate roads during 2013 led to significant risks arising associated with continuing with building works which could only be mitigated through a formal Stopping Up process. This meant that roads were required to be designated as highways and then formally stopped up. This process took place between the Autumn 2013 and Spring 2015.
- 4.4 Once this process was resolved in March 2015, the builder reported an uplift in costs of 50% from their original fixed price. L&Q led negotiations could not reduce the costs and L&Q and the Council have subsequently been required to go through a further procurement process. These issues have delayed the scheme by 2 years.
- 4.5 In January 2016, L&Q selected Keepmoat as the contractor for Phase 1 and 2 on their behalf and on behalf of the Council. The development agreement and works contract were simultaneously entered into in January 2016 and the Phase 1 and 2 land was transferred for re-development. The main JCT works contract was entered into in July 2016 and is programmed to complete in October 2017.
- 4.6 The original Excalibur estate was comprised of 186 prefab properties, of which 178 are included within the regeneration scheme. The 8 properties not included are the 2 properties which were not included in Phase 1 (used as the TMO and as housing for a Phase 2 decant household) and the 6 listed properties. There are 29 freeholders of which 27 are within the scheme.
- 4.7 The Planning Application was approved by Lewisham Planners in April 2011 and Section 106 agreed (and full planning permission achieved) in March 2012. This is detailed for decant Phases 1 – 3 and outline for the overall master plan and final Phases (4 & 5). Consultation is currently under way on the detailed planning application for the final Phases (4&5). Each of the Phase Briefs is agreed by Mayor and Cabinet prior to the land transferring to L&Q
- 4.8 The indicative programme currently shows that Phase 1 homes should be complete in Autumn 2017 and the whole scheme complete in 2023. An indicative programme is shown in the table below:

Key milestone	Date
Phase 1&2 Practical Completion	October 2017
Phase 3 Vacant possession and Phase land transfer to L&Q	End 2017
Phase 3 commencement of demolition and construction	January 2018
Phase 3 Practical completion	October 2019
Phase 4 Vacant possession and Phase land transfer to L&Q	December 2019

Key milestone	Date
Phase 4 commencement of demolition and construction	December 2019
Phase 4 Practical Completion	June 2021
Phase 5 Vacant Possession and Phase land transfer to L&Q	July 2021
Phase 5 commencement of demolition and construction	July 2021
Phase 5 practical completion	February 2023

5 Phase 1&2 Development Programme Update

- 5.1 Phases 1&2 is currently on site and will complete in October 2017. Phases 1&2 will deliver 57 new homes. 34 of these will be available for social rent, including 15 2-bed houses, 5 3-bed houses, 2 4-bed houses, 11 2-bed bungalows and 1 3-bed bungalow. . A Local Lettings Plan has been agreed for the scheme. All new social rented homes on this Phase have been allocated to existing estate residents.
- 5.2 There are also 5 Equity Ownership properties on this Phase which have been earmarked for resident freeholders on the estate who wish to use their equity to remain on the estate in a newbuild property.

6 Phase 3 Vacant Possession Update

- 6.1 The remaining 17 households who are secure tenants in Phase 3 of the regeneration programme have been allocated a property in the new units to be provided by October 2017. A Resident Choice event has been carried out with tenants to enable them to choose from a selection of Kitchen and Bathroom finishes, and paint colours.
- 6.2 Officers are in the process of seeking Postponed Possession Orders which will ensure vacant possession of all tenanted properties in Phase 3 to enable the land to be redeveloped in early 2018.
- 6.3 There are 3 freehold households remaining on Phase 3. One household is allocated to a newbuild property as a tenant, another wishes to buy under the equity ownership scheme. Officers are corresponding with the third to enable them to move before vacant possession is required later in the year. The Secretary of State has granted a Compulsory Purchase Order (CPO) for all freehold properties in Phase 3 and the final vesting date will be set shortly to suit the programme.

7 Phase 4&5 Update

- 7.1 L&Q are in the process of consulting with local residents on the detailed proposals for Phases 4 and 5 with a view to submitting a detailed planning application at the end of the month.

- 7.2 In recognition of the scheme delays and the general condition of the remaining properties a voluntary decant for tenants who wish to move away was begun in the Autumn 2014.
- 7.3 Phase 4 and 5 decants are underway with around a fifth of properties already vacant and a number of tenants allocated to the newbuild properties currently under construction on Phase 1&2. Secure tenants in Phases 4 and 5 are able to bid on properties off-estate through Choice-Based Lettings. Where tenants wish to move out of borough, L&Q are also seeking to facilitate moves into properties they own and manage in other areas.
- 7.4 Voluntary buyback for freeholders who wish to be bought back and make their own re-housing arrangements was commenced in November 2015. 3 buybacks have already been completed and officers are in active negotiations with 2 other households. Officers will shortly write out to freeholders from later phases who may be interested in the equity ownership options available in newbuild properties on Phases 1&2. This offer is only available to resident freeholders.

8 Demolition Notices

- 8.1 Right to Buy (RTB) presents a risk to regeneration schemes as the Council is required to buy back leasehold or freehold interests granted under RTB in order to proceed with the scheme. New RTBs increase scheme costs and potentially could make a scheme financially unviable.
- 8.2 Initial Demolition Notices were served on all secure tenants within Phases 1, 2, 3 and 4 in August 2012. These are due to expire in the Summer 2017. They are no longer required for Phases 1, 2 and 3. However, a further Initial Demolition Notice will now be required for Phase 4 due to the delay to the project referred to at paragraph 5.4 above.
- 8.3 Subject to Secretary of State's consent being obtained in the case of Phase 4, Officers are therefore requesting authority to serve Initial Demolition Notices on all secure tenants within Phases 4 and 5 in order to suspend any current or future Right to Buy applications from completing. 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.
- 8.4 Once the proposed demolition date is actually known, the Council can then serve a Final Demolition Notice which renders all existing right to buy applications ineffective and prevents any further right to buy applications being made. At present it is envisaged that all prefabs in Phases 4 and 5 will be demolished by the Council within the next five years as shown in the indicative programme at section 4.8.

9 Interim Management of the Excalibur Estate prior to the completion of the regeneration scheme

- 9.1 The council's properties on the Excalibur estate have been managed by a Tenant Management Organisation (TMO) since 1991. In recent years, the TMO's performance has deteriorated. In particular, a recent audit undertaken by Council officers found significant lack of compliance with gas safety regulations, where a number of properties were found not to have a valid gas safety certificate.
- 9.2 Due to the unsatisfactory response of the TMO to this and a number of other issues, the Council took the decision to serve a termination notice on the TMO. The TMO was entitled to appeal the termination notice to the Secretary of State. It did so, and in December 2016 the Secretary of State determined that the termination notice should stand. The effect of this decision was that the TMO's management of the estate would come to an end.
- 9.3 It is now proposed that Lewisham Homes manages the properties which were previously managed by the Excalibur TMO. Under this proposal, Lewisham Homes would become responsible for all housing management matters regarding the properties until the last of the council tenants are rehoused and the regeneration of the estate is complete.
- 9.4 The Council consulted on this proposal with secure tenants on the Excalibur estate. Copies of all responses are available for inspection by members in the members' room.
- 9.5 Letters were sent to all 77 secure tenants who still live on the estate. A copy of the letter is attached at Appendix 1. The letter included a freepost envelope which tenants could use to send their comments. The letter also offered tenants the opportunity to attend a drop-in session or to request a home visit from an officer so that the proposed changes could be explained. 13 responses were received, which are summarised below:

Number of responses	Summary of comments	Response
13	<p>The majority of responses expressed a preference for remaining as a TMO, or asked whether any alternative providers could be considered.</p> <p>A number of responses raised concerns around potential changes which may be introduced by Lewisham Homes, such as changes to how rent is collected or how repairs are carried out.</p> <p>Two responses were clearly in favour of the proposal.</p>	As the effect of the of the Secretary of State's decision is that the contract between the Council and the TMO will end, it is not possible to continue with the current TMO.

- 9.6 In deciding whether to proceed with the proposal, the Council also needs to take

into account a number of wider considerations. As the properties (other than those which are listed) are due to be demolished in the coming years, it is very unlikely that an alternative housing provider would bid to manage the properties on the estate if the Council was to pursue this option.

- 9.7 For the same reason, it is not recommended that efforts are made to establish a new TMO, as the size of the estate will continue to reduce in the coming years which means that a TMO would not be viable. Furthermore, the Council needs to be assured that the properties on the estate are well managed, including repairs being undertaken promptly and all health and safety regulations complied with. As the Council's primary affordable housing management provider, Lewisham Homes is best placed to provide this service in line with its existing policies and procedures.
- 9.8 As part of the proposal, it is accepted by Lewisham Homes that the TUPE Regulations would apply to staff who are currently directly employed by the Excalibur TMO to deliver these services, therefore their employment would transfer to Lewisham Homes. The precise arrangements for this transfer will be the subject of negotiations between the Excalibur TMO and Lewisham Homes.

10 Financial Implications

- 10.1 The costs of management of all the council's social housing stock is contained within the Housing Revenue. The proposed change in the management arrangement in respect of Excalibur will be contained within existing budgets.

11 Legal Implications

Service of Initial Demolition Notices and Final Demolition Notices

- 11.1 The Housing Act 2004 amended the Housing Act 1985 to introduce a new statutory procedure for the service of Initial and Final Demolition Notices by authorities. Broadly, the effect of the service of Initial Demolition Notices on secure tenants is to suspend the requirement for the Council to complete right to buy applications for as long as the notice remains in force. The Initial Demolition Notice is required to contain certain prescribed information including a statement that the landlord intends to demolish the property, the reasons for this and the period within which the demolition will take place, which must be a reasonable period expiring not more than 5 years after the date of service of the Notice on the tenant.
- 11.2 This report requests authority to serve further Initial Demolition Notices on secure tenants in Phase 4 and to serve Initial Demolition Notices on secure tenants in Phase 5. The service of a further Initial Demolition Notice within the period of 5 years from when a previous Initial Demolition Notice ceased to be in force requires the consent of the Secretary of State. This report therefore requests authority to make an application to the Secretary of State in respect of Phase 4 in this respect and service of further Initial Demolition Notices for Phase 4 will be subject to consent being obtained.

- 11.3 The Notice does not prevent tenants from making right to buy applications. However, the effect of the notice is that the Council is not required to complete any right to buy applications within the period specified in the Notice. 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. 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 (e.g. survey fees) incurred prior to the Initial Demolition Notices coming into force.
- 11.4 Once the proposed demolition date is actually known, the Council can then serve a Final Demolition Notice which renders all existing right to buy applications ineffective and prevents any further right to buy applications being made. Again, compensation will be payable to Tenants with existing right to buy claims at the time the Final Demolition Notices are served.
- 11.5 Section 105 of Part IV of the Housing Act 1985 makes it a requirement for a landlord authority to consult with those of its secure tenants who are likely to be substantially affected by a matter of housing management. Accordingly, formal Section 105 consultation has been undertaken with secure tenants on the proposal that Lewisham Homes manages the properties which were previously managed by the Excalibur TMO. The results of that consultation are set out in this report.
- 11.6 As a result of this proposal, employees who are currently employed by the TMO could potentially transfer to Lewisham Homes. Lewisham Homes will be expected to carry out the necessary due diligence with the current providers in order to ascertain whether their staff would TUPE transfer across to them and to make arrangements to take on such staff as necessary.

Equalities

- 11.7 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 11.8 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.

11.9 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 13.7 above.

11.10 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

11.11 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: <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

11.12 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

11.13 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:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

12 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 1st 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 their decision, Members need to consider the extent to which the decision may impact upon the Human Rights of estate residents and to balance these against the overall benefits to the community which the redevelopment of the estate will bring. Members 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 affected tenants will be entitled to compensation as set out in paragraphs 9.3 and 9.4.

13 Crime and disorder implications

- 13.1 There are no specific Crime and disorder implications arising from this report.

14 Equalities implications

- 14.1 There are no specific Equalities implications arising from this report.

15 Environmental implications

- 15.1 There are no environmental implications arising from this report.

16 Background Documents and Report Originator

Title	Date	File Location	Contact Officer
Regeneration of Excalibur Estate – Update & Section 105 Consultation	18 January 2012		
Regeneration of Excalibur Estate - CPO	7 March 2012		
Re-development of Excalibur: Demolition Notice and Future Lettings	30 June 2012		
Regeneration of Excalibur Estate - Update	10 April 2013		

16.1 If you have any queries relating to this report please contact Laura Harper on 020 8314 6096.

Appendix 1: Section 105 consultation letter



Jeff Endean
Strategic Housing & Programme Manager
4th Floor Laurence House
Catford
London SE6 4RU

Dear

PLEASE READ THIS LETTER CAREFULLY

**IT CONCERNS THE FUTURE MANAGEMENT OF PROPERTIES IN BAUDWIN ROAD,
ECTOR ROAD, MELIOT ROAD, MORDRED ROAD, PELINORE ROAD, PERSANT ROAD
& WENTLAND CLOSE & WENTLAND ROAD**

**IT ALSO EXPLAINS HOW YOU CAN PROVIDE US WITH YOUR VIEWS ABOUT
THE COUNCIL'S PROPOSALS**

I am writing to consult you about the Council's proposal to transfer management of the properties listed above from Excalibur TMO to Lewisham Homes. This letter represents formal consultation under Section 105 of the Housing Act 1985, and is within the arrangements which the Council maintains for this purpose.

The Proposal

In December 2016, the Secretary of State terminated the Excalibur TMO Management Contract with the Council.

The Council proposes transferring the provision of the Housing Management Service for tenants of the above properties to Lewisham Homes with effect from 3rd April 2017. This will be an interim arrangement until the decanting process for all remaining secure tenants on the estate is concluded and L&Q take over as sole housing provider for the new build properties. The TMO Committee will continue to provide the service until the date of transfer on 3rd April 2017.

Lewisham Homes

Lewisham Homes were set up in January 2007 and are an arms length management organisation (ALMO). It is a non-profit making company, wholly owned by the Council, run by an Independent Management Board which consists of Local Ward Councillors, residents and independent members. They are currently responsible for managing approx 12,461 social housing tenancies and approx 5,724 leaseholder properties within the Borough. The Council remain the landlord for all properties managed by Lewisham Homes who provide the housing management services under the terms of a legally binding management agreement.

Lewisham Homes' responsibilities if the service is transferred

If this proposal is agreed, Lewisham Homes would take on responsibility for the provision of all your housing management services including tenancy management and rent collection. They would also be responsible for undertaking all repairs and maintenance to your property, including maintaining the communal areas.

If the Council proceeds with this proposal, Lewisham Homes will contact you prior to the proposed transfer date of 3rd April to ensure you have all information and documentation needed to ensure you can continue to manage your tenancy.

The Regeneration Scheme on the Estate will remain under the management and control of the Council and will not be transferring to Lewisham Homes. The decant process and procedure will remain the same and this service will continue to be provided to you by officers from the Council.

Consultation

The Council is seeking your views on the proposal set out in this letter above.

If you and any other secure tenant in your home wish to make any representations about any aspect of these proposals and their effect as outlined in this letter, you must do so please by no later than 12 noon on Monday 6th March 2017.

There are a number of ways you can provide us with your representations as follows:

- **In writing, sent to the following address for the attention of Erica Turner:**

**Strategic Housing, 4th Floor Laurence House
1 Catford Road
London SE6 4RU**

A freepost envelope is enclosed for this purpose

- Comments can also be made via email at the following address:
Erica.Turner@lewisham.gov.uk
- At a “drop-in” session to be held at **Goldsmiths Community Centre, Castillon Rd, SE6 1QD from 10am – 1pm on Thursday 16th February 2017**. The session will be attended by Officers from the Council, who will be happy to speak to you about the proposal and answer any question you may have.
- We can also arrange for a Council officer to visit you at home if you prefer, to discuss the proposal and any concerns you may have. To organise this **please call Erica Turner on 0208 314 9294**

• All representations received by the time specified will be considered as part of the transfer arrangements.

Yours sincerely



**Jeff Endean
Housing Strategy & Programme Manager**

Transfer of Housing Management Services from Excalibur to
Lewisham Homes – Section 105 Consultation February / March 2017

Name: _____

Address: _____

Signed: _____

Please use this space to enter any comments or representations you wish to make regarding the proposal outlined in the letter accompanying this form

Continue on the reverse or use additional pages as required

For your comments to be considered your response must arrive no later than midday on Monday 6th March 2017.