

Mayor and Cabinet			
Title	New Homes Programme Update		
Key decision	Yes	Item no	
Wards	All wards		
Contributors	Executive Director for Customer Services, Executive Director for Regeneration and resources, Head of Law		
Class	Part 1	October 4 2017	

1 Purpose of report

- 1.1 This report provides an update on progress in delivering the Council's new homes programme, New Homes, Better Places. Since the last programme update in July, 60 new homes for older people have been completed at Hazelhurst Court, Beckenham Hill, and nine new general needs council homes have been completed and let at Woodvale, Forest Hill. A further 48 new homes have been submitted for planning permission. Planning permission has also been granted for one new council home at Rawlinson House in Lewisham Central.
- 1.2 Also at Woodvale, eight private sale homes will be sold to generate in the region of £2.6million to cross-subsidise the delivery of new council homes in the New Homes Programme. In preparing to sell these new homes it has become apparent that there is an historic right of way over part of the land. In order to extinguish this right, the land needs to be appropriated for planning purposes. This report seeks to appropriate the land cross hatched on Plan A attached at Appendix B for planning purposes.

2 Summary

- 2.1 In July 2012 the Council embarked on a programme to build new Council homes in response to a series of on-going housing policy and delivery challenges, most notably an enduring under-supply of new affordable homes available to the Council to meet housing demand.
- 2.2 A series of update reports has subsequently been considered by Mayor and Cabinet and Housing Select Committee outlining progress in meeting the target of starting 500 new Council homes for social rent, by Spring 2018.
- 2.3 86 new social homes have now been completed, a further 105 are on-site and being delivered. This means that a total of 191 new social rented homes are now underway. In addition there are a further 21 projects on which design

development is advancing and which have the capacity to provide around 322 council homes which will start by Spring 2018. The programme therefore contains a total of 513 homes which are expected to start by early 2018. A full summary of the development programme is appended to this report as appendix A.

- 2.4 At Woodvale, Forest Hill, SE23, nine council homes and eight private sale homes have been developed. In order to sell these homes, this report seeks to appropriate the land shown hatched black on Plan A attached at Appendix B for planning purposes. The land shown hatched on Plan B has already been acquired to assemble the site. Further detail on the appropriation can be found at section 6.

3 Recommendations

- 3.1 It is recommended that the Mayor:
- 3.2 Notes the progress update contained at Section 5.
- 3.3 subject to the consent of the Secretary of State being obtained under Section 19 of the Housing Act 1985, agrees to the appropriation of the Council owned land shown hatched black on Plan A attached at Appendix B, from housing purposes to planning purposes under Section 122 of the Local Government Act 1972 as set out in section 6; and
- 3.4 approves the making of an application to the Secretary of State under Section 19 of the Housing Act 1985 for consent to the appropriation, as referred to in recommendation 3.3

4 Policy context

- 4.1 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.
- 4.2 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.
- 4.3 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

5 Recent Programme Achievements

- 5.1 Phoenix Community Housing Association, with the support of £2.1m of Council funding, has completed the development of 60 bespoke new extra care homes for rent for residents over the age of 55 at Hazelhurst Court, in Bellingham. First lettings to the scheme will take place later this month. The nature of the housing stock in the Phoenix area of the borough – which is predominantly family housing – means that there are few downsizing options for tenants, and this development therefore offers a very good opportunity to provide high quality new homes and also to free up family sized accommodation. The Council has commissioned care and support services at the scheme, which will be provided by Notting Hill Care Pathways.
- 5.2 At Woodvale in Forest Hill, nine new council homes were completed in August, which included large 3 and 4 bedroom homes. Three of the new homes were let to existing tenants who were down-sizing and released larger homes to be re-let to other households in housing need. One home was let to an existing tenant whose previous home was overcrowded, one to a resident in need of wheelchair accessible accommodation and four to households who were homeless and in temporary accommodation.
- 5.3 Planning consent has been achieved at Rawlinson House in Lewisham Central, where a new homes will be created out of currently disused space. It is expected that work will start on site early in the new year.

6 Woodvale Appropriation

- 6.1 The Woodvale site is situated on the south east side of Buckley Close and to the rear of 182-244 Wood Vale on an existing housing estate in the Forest Hill ward. It is located in a predominantly residential area with three primary schools within 1km. The site was previously occupied by garages and hard standing.
- 6.2 The development will provide a mix of nine Council homes for social rent and 8 houses for private sale. The social rent homes are a mix of one x 1 bedroom home, seven x 2 bedroom homes and one x 4 bedroom home. The private sale element is eight 3 bedroom terraced houses with a small rear garden and integrated garages. The scheme was granted planning consent on 9th April 2015 and started on site in January 2016. The scheme is progressing well and the rented homes completed in August 2017.
- 6.3 Based on the valuation advice received to date and current forecast scheme costs, the sales receipts for the sale units are expected to generate approximately £2.6m in cross-subsidy to support the delivery of additional social rented homes on other projects. If this level of receipt is achieved, it would be sufficient to cover the costs of the entire development, including the nine Council homes for social rent.
- 6.4 The Council owns the freehold interest of the site shown on the attached plan. The Council acquires and holds property for various statutory purposes in order to provide its various functions. The site is currently held by the Council for housing purposes within the Housing Revenue Account. In accordance with Section 122 of the Local Government Act 1972, an authority may appropriate land from one purpose to another, when it is no longer required for the purpose for which it was previously held.
- 6.5 The land was originally occupied by garages and hardstanding associated with the garage block. Accordingly, the land is no longer required for the purpose for which it was originally held.
- 6.6 Under Section 226(1)(a) of the Town and Country Planning Act 1990 the Council has power to acquire compulsorily land in its area for planning purposes if it thinks that the acquisition will facilitate the carrying out of development/re-development or improvement on or in relation to the land. The Council must not exercise the power under Section 226(1)(a) unless it thinks that the development/re-development or improvement is likely to contribute to the achievement of one or more of the following objects:

- (a) the promotion or improvement of the economic well-being of the area;
- (b) the promotion or improvement of the social well-being of the area;
- (c) the promotion or improvement of the environmental well-being of the area.

6.7 The Council has power to appropriate land for planning purposes on the same basis. In this case, the appropriation of the land for planning purposes will facilitate the development of the land in question. The development of this land contributes to the social well-being of the area by providing eight x 3 bedroom family size homes. The carrying out of development also contributes to the economic and environmental well-being of the area.

6.8 Land is held by the Council subject to any existing interests and rights belonging to third parties and the land will be sold subject to any such interests and rights on disposal. However, under Section 203 of the Housing and Planning Act 2016, a person may carry out building work or use land to which Section 203(1) and 203(4) apply even if it involves interfering with a relevant right or interest or, breaching a restriction as to the user of the land arising by virtue of a covenant. The power applies where:

- (i) there is planning consent for the building works;
- (ii) the land has at any time on or after 13 July 2016 either been vested in or acquired by the authority or appropriated for planning purposes
- (iii) the authority could acquire the land compulsorily for the works/use; and
- (iv) the works/use is for purposes relates to the purposes for which the land was vested, acquired or appropriated.

The power will therefore apply following the appropriation of the land for planning purposes.

6.9 The purpose of the appropriation of the land to planning purposes is to facilitate the re-development of the site by ensuring that third party rights do not impede the carrying out of the development and subsequent use of the land.

6.10 Where rights are extinguished, the owners of any such interests are entitled to compensation calculated under the compulsory purchase compensation rules for injurious affection. However, appropriation removes the potential for excessive compensation claims and the ability for owners to obtain injunctions preventing the redevelopment or claim damages.

- 6.11 Part of the site is subject to vehicular and pedestrian rights of way which were granted when the adjoining site now known as Buckley Close was sold by the Council. These rights could therefore potentially adversely affect the redevelopment of the site. This report is proposing that the site is appropriated from housing purposes to planning purposes which would extinguish the rights of way over this land. Officers are satisfied that the loss of these rights within the site will not have any impact on the use and enjoyment of any properties who technically benefit from them. This is because the existing vehicular and pedestrian access into Buckley Close is maintained and access over the part of the site subject to vehicular and pedestrian rights of way is not required.
- 6.12 Assessment of compensation for the loss of rights would be calculated on the basis of the before and after market value of the affected properties. It will be for the owners to demonstrate that that the loss is likely to cause inconvenience to them and affect the enjoyment of their properties and to substantiate any claim for compensation.
- 6.13 The Market Value of the land to be appropriated is £960,000, the land value takes into consideration existing planning permission for 17 residential units i.e. eight houses and nine apartments currently under construction.

7 Financial Implications

- 7.1 In December 2013, Mayor & Cabinet agreed that in order to extend the available resources to build new homes within HRA constraints, that the new build programme should include a small number of homes that would be sold on completion, to generate a surplus on the construction cost which could be re-invested in the delivery of more social housing.
- 7.2 Woodvale is the first such mixed development scheme to near completion. The sales receipts generated from this development will be reinvested back into the new build programme.
- 7.3 The Council's current 30 year financial model for the Housing Revenue Account includes provision for up to 500 new units, for social rent purposes, at an average cost of £190k each (adjusted annually for inflation) over the first 10 years of the model. The receipt from the Woodvale private unit sales will contribute to meeting this target.
- 7.4 The land shown hatched black on the plan attached at Appendix A will be transferred from the Councils Housing Revenue Account (HRA) to Other Land & Buildings (General Fund) at the value specified in this report.
- 7.5 The appropriation will result in a cost increase to General Fund as the overall level of General Fund debt will be increased, resulting in increased interest charges and Minimum Revenue Provision (MRP). In addition there will potentially be minor cost increases relating to ongoing maintenance of the transferred land.

8 Legal Implications

- 8.1 The Council has power under the Local Government Act 1972 to appropriate land which is no longer required for the purpose for which it was acquired to use for any other purpose for which it has power to acquire land. In the case of land held for housing purposes, that power is subject to Section 19 of the Housing Act 1985. Under Section 19(1), an authority may not appropriate housing land with dwellings on it for other purposes without the consent of the Secretary of State. In this case, Section 19(1) is therefore engaged as there are dwellings within the site and the appropriation is therefore subject to Secretary of State's consent being obtained. The legal implications associated with the appropriation of the site to planning purposes and the effect of Section 203 of the Housing and Planning Act 2016 are set out in full in Section 6 of this report.
- 8.2 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.
- 8.3 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.
- 8.4 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 8.3 above.
- 8.5 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. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations. 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.
- 8.6 The Equality and Human Rights Commission has recently 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>

- 8.7 The Human Rights Act 1998 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.
- 8.8 The rights that are of particular significance to the Mayor's decision in this matter are those contained in Articles 8 (right to home life) and Article 1 of Protocol 1 (peaceful enjoyment of possessions).
- 8.9 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.
- 8.10 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.
- 8.11 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 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.
- 8.12 The effect of the extinguishment of the rights is set out above and is not considered to be adverse. It is also relevant to the consideration of this issue,

that affected owners will be entitled to compensation for any diminution in the value of their properties resulting from the extinguishment of these rights.

9 Crime and disorder implications

9.1 There are no crime and disorder implications arising from this report.

10 Equalities implications

10.1 There are no equalities implications arising from this report.

11 Environmental implications

11.1 There are no environmental implications arising from this report.

Background Documents and Report Originator

Title	Date	File Location	Contact Officer
New Homes, Better Places Programme Update	1 June 2016	Available at this link	Jeff Endean
New Homes, Better Places Phase 3 Update	14 January 2015	Available at this link	Jeff Endean
New Homes, Better Places Programme Update	15 November 2015	Available at this link	Jeff Endean
New Homes, Better Places Programme Update	1 June 2016	Available at this link	Jeff Endean
New Homes, Better Places Programme Update	11 January 2017	Available at this link	Jeff Endean

If you have any queries relating to this report please contact Jeff Endean on 020 8314 6213.

Appendix A – Programme Update

Project	Lead Partner	New Homes			Next decision/stage	Target Planning Dates		Target Start on Site	Target Completion Dates
		Total	Council	Other Affordable		Submission	Approval		
Completed schemes									
Mercator Road	L. Homes	6	6	0	Complete				
Marischal Road	Pocket Living	26	0	26	Complete				
Slaithwaite Community Room	L. Homes	1	1	0	Complete				
Forman House	L. Homes	2	2	0	Complete				
Angus Street	L. Homes	1	1	0	Complete				
Dacre Park South - Phase 1	L. Homes	7	7	0	Complete				
PLACE/Ladywell	LBL	24	0	24	Complete				
Hamilton Lodge	LBL	21	0	21	Complete				
Hazelhurst Court	Phoenix	60	60	0	Complete				
Wood Vale	L. Homes	17	9	0	Complete				
SUBTOTAL		165	86	71					
Schemes on site									
Honor Oak Housing Office	L. Homes	5	5	0	On Site				Dec-17
Dacre Park South - Phase 2	L. Homes	18	18	0	On Site				Jan-18
Forster House	Phoenix	22	22	0	On Site				Jan-18
Woodbank	Phoenix	4	4	0	On Site				Mar-18
Longfield Crescent	L. Homes	27	27	0	On Site				Apr-18
Dacre Park North	L.Homes	5	0	0	On Site				Sep-18
Campshill Road	One Housing	53	34	19	On Site				Feb-19
CUMULATIVE SUBTOTAL		294	191	90					
Schemes awaiting start on site									
Rawlinson House	L. Homes	1	1	0	Start on Site		Sep-17	Jan-18	May-18
CUMULATIVE SUBTOTAL		295	192	90					

Schemes awaiting planning consent										
Marnock Road	L. Homes	6	6	0	Planning decision		Sep-17	Jan-18	May-19	
Stanstead Road	Birnbeck HA	4	4	0	Planning decision		Dec-17	Jan-19	Jan-19	
Mayfield	L. Homes	47	47	0	Planning decision		Nov-17	Jan-18	Jul-18	
Hawke Tower	L. Homes	1	1	0	Planning decision		Dec-17	Mar-18	Aug-19	
CUMULATIVE SUBTOTAL		353	250	90						
Schemes awaiting planning submission										
Kenton Court	L. Homes	25	25	0	Planning submission		Sep-17	Nov-17	Jan-18	Feb-19
Endwell Road	L. Homes	9	9	0	Planning submission		Sep-17	Dec-17	Mar-18	Jul-19
Pepys Housing Office	L. Homes	5	5	0	Planning submission		Sep-17	Dec-17	Mar-18	Jul-19
Somerville Estate Phase 1	L. Homes	23	23	0	Planning Submission		Oct-17	Dec-17	Jan-18	Jun-19
Church Grove	RUSS	33	5	28	Planning submission		Sep-17	Dec-17	Mar-18	Mar-21
Brasted Close	L. Citizens	14	0	14	Planning submission		Oct-17	Jan-18	Apr-18	Dec-19
Grace Path	L. Homes	6	0	0	Planning submission		Oct-17	Jan-18	Apr-18	May-19
Silverdale Hall	L. Homes	7	7	0	Planning submission		Oct-17	Jan-18	Apr-18	May-19
Algernon Road	L. Homes	5	5	0	M&C decision (25 Oct)		Nov-17	Feb-17	May-18	Dec-19
High Level Drive	L. Homes	26	26	0	M&C decision (15 Nov)		Dec-17	Mar-18	Jun-18	Dec-19
Forest Estate	L. Homes	17	17	0	M&C decision (15 Nov)		Dec-17	Mar-18	Jun-18	Jun-18
Home Park	L. Homes	36	36	0	M&C decision (6 Dec)		Jan-18	Apr-18	Jul-18	Oct-18
Bampton Estate	L. Homes	60	60	0	M&C decision (6 Dec)		Jan-18	Feb-18	Jul-18	Dec-19
Embleton Road	L. Homes	3	3	0	M&C decision (6 Dec)		Jan-18	Mar-18	May-18	Jul-19
CUMULATIVE SUBTOTAL		622	471	132						
Schemes in early development										
PLACE/Deptford	LBL	33	33	0	M&C decision		Oct-17	Jan-18	Apr-18	Mar-18
93-95 Rushey Green (purchase)	LBL	9	9	0	M&C decision					Oct-17
TOTAL		664	513	132						

Appendix B– Woodvale Site Plan



Appendix C – CGIs of Development

Aerial View Looking South East



View from Buckley Close

