

MAYOR AND CABINET		
Report Title	Regeneration of Excalibur Estate – Update	
Key Decision	Yes	Item No.5
Ward	Whitefoot	
Contributors	EXECUTIVE DIRECTOR FOR CUSTOMER SERVICES, EXECUTIVE DIRECTOR FOR REGENERATION, EXECUTIVE DIRECTOR FOR RESOURCES, HEAD OF LAW	
Class	Part 1	Date: 23 February 2011

1. Summary

- 1.1 On 17th September 2010, the Mayor agreed that the regeneration of Excalibur proceed with L&Q, on the basis that officers have undertaken the estate wide ballot and subsequent Section 105 consultation.
- 1.2 Officers have been progressing the scheme with the aim of L&Q starting on site for Phase 1 in March 2011. In order for this to happen L&Q are required to have a legal interest in the Phase 1 land and both parties are required to approve an overarching Development Agreement. These items are for considered in Part 2 of this report.
- 1.3 In order to keep the momentum of the scheme going, this report also looks at how Officers propose Phase 2 moves forward.

2. Purpose of Report

- 2.1 To update Mayor and cabinet on progress with Phase 1.
- 2.2 To set out the necessary re-housing and buyback arrangements for Phase 2.

3. Policy Context

- 3.1 The re-development of the Excalibur estate contributes to key national objectives, particularly in meeting the decent homes standard and increasing the supply of affordable housing.
- 3.2 The scheme supports Lewisham's Sustainable Community Strategy by setting out a framework for improving residents quality of life. This approach is borne out in the innovative design proposals of this scheme, especially towards the 'Clean green and liveable' priorities to

increase the supply of high quality housing to accommodate the diverse needs of the population.

- 3.3 The Council has outlined ten corporate priorities which enables the delivery of the Sustainable Community strategy. The proposals for the re-development of the Excalibur Estate addresses the corporate priorities to provide decent homes for all, to invest in social housing and affordable housing in order to increase the overall supply of new housing. The scheme will also develop opportunities for the active participation and engagement of people in the life of the community.
- 3.4 The scheme supports the aims of Lewisham's Housing Strategy 2009-2014 'Homes for the future, raising aspirations, creating choice and meeting need' and will deliver on its main themes of 'People, homes and places and Quality and sustainability'
- 3.5 The scheme will increase local housing supply and by introducing a range of housing types and tenures for a range of income households, the scheme will help to widen housing choice. By obtaining external funding and using Council owned land for the purposes set out here, the Council is engaging with delivery partners and making the best use of available resources. The current proposals will deliver 64% affordable units and 39% family sized units (including 2 bed 4 person houses) across the scheme. A key principle of the scheme is to make the new development a desirable place to live, supporting the strategic objectives around design quality and safety, accessibility and improving environmental performance.

4. Recommendations

It is recommended that the Mayor subject to funding being available in 2011/12:

- 4.1 agrees that where necessary, Notice of Seeking Possession is served and possession proceedings brought against secure tenants of properties in Phase 2 (as shown on the plan attached as Appendix 1 of this report) under Ground 10 of Schedule 2 to the Housing Act 1985;
- 4.2 agrees that any properties in Phase 2 which were previously sold under the Right to Buy be repurchased by the Council at market value (plus reasonable professional fees) where agreement can be reached with freeholders, in advance of any Compulsory Purchase Order being made by the Council and to delegate authority to the Head of Asset Strategy and Development, in consultation with the Head of Law. to negotiate and agree the acquisition terms;
- 4.3 agrees that secure tenants and resident freeholders of properties in Phase 2 are re-housed in line with paragraphs 8.10 to 8.15 of this report;

4.4 agrees that home loss and disturbance payments are made to displaced secure tenants and freeholders of properties in Phase 2 where appropriate in accordance with the Land Compensation Act 1973;

5. Background and Resident Consultation

5.1 At the Mayor & Cabinet meeting on March 24 2010, the unprecedented decision was taken to offer residents a ballot on the regeneration proposals. Residents were informed that, in the event of a 'yes' vote, the Council and L&Q would work together to deliver the regeneration of Excalibur. In the event of a 'no' vote, residents were informed the regeneration proposals put forward by L&Q would not go ahead.

5.2 In July 2010 Lewisham Council, through the independent Electoral Reform Services Ltd, conducted a confidential ballot of residents. The ballot was offered to resident tenants and freeholders whose primary homes would be demolished. In total, 224 ballot papers were sent out.

5.3 Residents eligible to vote were asked 'Are you in favour of the regeneration of the Excalibur estate as proposed by L&Q?' Residents were given two options to answer. Out of the 224 possible votes, 203 (90.6%) were returned. A total of 56.2% of residents supported the re-development of the Excalibur estate as proposed by L&Q. Even if the 21 who did not vote, had voted 'No', there still would have been more residents that wanted the re-development to go ahead. Following the results of this ballot, it was clear that the majority of residents support the regeneration proposals and not the retention of the current prefabs.

5.4 Following this, the Authority was required to carry out statutory Section 105 consultation with secure tenants affected by proposals. At the closing of the consultation period a total of 38 responses had been received from secure tenants, which represented a 21% response rate. 23 of the responses were classified as opposed to the development while 4 were in favour and 11 were neutral.

5.5 There has been extensive consultation with estate residents over many years. This has included meetings, development of a resident steering group, exhibitions, a regeneration forum and other subject specific sub groups, involvement of an independent tenant advisor and the ballot.

5.6 Officers will continue to communicate regularly with residents about the regeneration and how the scheme is progressing. There has been recent consultation and information sharing with regards to the detailed plans being submitted in the planning application and there

will be in future years as detailed planning approvals are required.

5.7 Officers will continue to work with the regeneration steering group and TMO as necessary.

5.8 There is a long history of interaction with residents of Excalibur around achieving decent homes on the Excalibur Estate. A short summary of this work since L&Q's selection as the preferred partner is outlined below:

- April 2007 – L&Q recommended by residents as preferred RSL partner for redevelopment through stock transfer and appointment by M&C.
- July & August 2008 – stage 1 consultation on offer document takes place.
- October 2008 – Ballot deferred following imminent listing decision.
- March 2009 – DCMS list 6 properties
- April 2009 – February 2010 - scheme redesign in order to accommodate listed properties and economic downturn, funding sought to make revised scheme deliverable.
- February 2010 – HCA confirm that funding could not be made available to a stock transfer, only a regeneration scheme. Residents are consulted, results of which are fed back in a report to Mayor and Cabinet.
- March 2010 – Mayor and Cabinet decide that residents should be offered the unprecedented option of a ballot on the regeneration proposals. Officers are instructed to prepare for a ballot, and to explain to residents the impact of a yes and no vote.
- July – September 2010 – 90% of residents take part in the ballot, 56.2% vote yes to the redevelopment proposals and these results are reported to Mayor and Cabinet in September 2010.
- November 2010 – Mayor and Cabinet asked to consider responses to the Section 105 consultation and recommended to agree to progress the redevelopment of the Excalibur Estate.

6. Scheme proposals

6.1 The current estate with proposed phasing is shown in Appendix 1. The development proposals are shown in Appendix 2.

6.2 The scheme proposals remain unchanged from the report that was agreed by Mayor and Cabinet on 15th September 2010. Some key points are:

- There will be mix of homes and bed sizes including bungalows in the new development.
- Affordable homes will meet code for sustainable homes level 4.
- Affordable homes will be built to Parker Morris Space Standards plus 10%.
- All homes will meet lifetime homes standards.

- 49 (13%) of the homes will be for wheelchair users.
- Residents who wish to remain in the new development would be offered a bungalow or 2 bed house as a minimum and every child in a household could be allocated their own bedroom (up to a maximum of 4-bed properties) on the new estate. In accordance with Lewisham's Allocations policy there is scope for a local lettings plan to be set up for these kind of exceptional circumstances.
- Housing on the new estate to be offered/ preference advertised for Excalibur decants/residents exercising their request to return before being opened up to the wider community
- A bespoke L&Q Tenancy Agreement for the Excalibur estate.
- Resident Freeholders would still be able to access L&Q's 4 options of outright sale, equity and shared ownership (on the new estate and elsewhere in L&Q properties) and, outright sale and reverting to tenancy (as an L&Q tenant on the new estate or elsewhere).
- L&Q have been keen to maintain an offer to re-house any freeholders on a temporary basis that require it throughout the build process. In addition, L&Q wish to retain the commitment to pay the difference in any rent increase for tenants or freeholders during the decant / temporary move process.
- Sensitive inclusion of the 6 listed properties.

7. Scheme Update

- 7.1 It has previously been reported that the HCA, while maintaining support for the regeneration of Excalibur would like to see a deliverable scheme before committing funding. Officers from the Council and L&Q have therefore been progressing the scheme on this basis.
- 7.2 L&Q are progressing with selection of the contractor, which is expected in March 2011 and a decision is expected on the planning application (detailed Phases 1-3 and outline master plan) also in March 2011.
- 7.3 The Phase 1 decant is underway, with Officers required to move 2 tenants and 2 freeholders. The buy back of one of the freeholders, a non resident, has recently been completed. Under the terms of the commitments to residents three households may require re-housing. Completing this process on time is therefore subject to the buy back negotiations and agreements with one freeholder on a future shared equity option and also on appropriate properties becoming available through the Council's Home Search system. The Decant Officers and Council's Valuer continue to work closely with each household as appropriate.
- 7.4 While HCA funding is still as yet uncertain, L&Q will seek to use their Recycled Capital Grant Funding (RCGF) should grant not be available

and Phase 1 is ready to go on site in March 2011. While the HCA is still required to sign off L&Qs use of RCGF at the current time, this is a positive fall back position to be in.

Phase 2 and Resident Re-housing

- 7.5 It is now imperative that momentum gained to date is harnessed and that the Council is ready to proceed with Phase 2 as planned from April 2011. This means that residents will need to be re-housed in accordance with the proposal document agreed with L&Q and local lettings plan that will be tailored to Excalibur to support these commitments.
- 7.6 It is therefore intended to start the process of negotiating with Phase 2 freeholders and re-housing Phase 2 tenants from April 2011, with a view to a start on site in late 2012 once the decant and buybacks are complete. Phase 2 contains 27 tenants and 6 freeholders.
- 7.7 Resident freeholders who wish to be re-housed by the Council and tenants in Phase 2 will be re-housed either off estate or in void properties on Excalibur if properties are available and this is preferred by the household. If re-housed off estate, these households will be able to return to the new development in due course. It is envisaged that the 7 homes for affordable rent in Phase 1 will become new homes for appropriate Phase 2 households. The remaining 26 households will be re-housed away from the estate and will be able to return to the new development in due course, should they so wish.
- 7.8 Freeholders are bought back through negotiation and tenants and resident freeholders will be re-housed in accordance with the Council's allocations policy. However, if properties cannot be acquired by agreement use of Compulsory Purchase powers may be necessary to meet the programme and the Council's regeneration aspirations. Any proposal to make a Compulsory Purchase Order would be the subject of a separate report to Mayor & Cabinet at a later date.
- 7.9 Freeholders will be bought back at market value plus the statutory home loss and disturbance payments. Similarly secure tenants will receive statutory home loss payments and disturbance payments.

8. Risks

- 8.1 There are a number of risks however officers believe these can be mitigated to have limited negative impact.
- 8.2 Funding - The key risk remains with the HCA as they are the first option for providing funding and, when the time comes, they also are able to veto L&Q's proposed use of RCGF. The HCA's greatest concern in allocating funding to the scheme is the deliverability of

Phase 1 largely due to the remaining households on site. However, should HCA funding not be forthcoming and L&Q seek to use RCGF, they will only do so when we are ready to go on site. As the HCA have long been aware of the importance of this scheme and have proffered support for it, it is felt the risk is low.

- 8.3 Phase 1 Decant - This remains a key area of uncertainty as gaining possession of the site requires re-housing 3 households, each with specific needs. The Council is working hard to make sure each household is re-housed in new homes that meet these needs within the timescales available.
- 8.4 Cleared site - On regeneration schemes such as these there is always the risk that once the Council has obtained vacant possession, despite working closely with the selected development partner, the Phase does not go ahead as planned. The fall back position is that should this happen, the Council will have a site that it can sell on the open market, thus covering any costs incurred.
- 8.5 Scheme go ahead - The first two risks identified here are critical to the scheme going ahead. If Phase 1 is not ready to go on site in March 2011, with the current changes being implemented by Central Government around funding, there is uncertainty about how the scheme will progress. The immediate fall back position that will be investigated is that Phase 1 then becomes part of Phase 2 and later timescales are followed.

9. Legal implications

Repurchase of properties

- 9.1 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 compulsory (subject to authorisation from the Secretary of State) but only where this is in order to achieve a qualitative or quantitative housing gain.

Decanting of Secure Tenants

- 9.2 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.
- 9.3 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.

- 9.4 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.
- 9.5 There is a more limited statutory re-housing liability for homeowners 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.
- 9.6 However, in order to facilitate early possession of properties which have been sold under the Right to Buy it is recommended that the Council should follow the same decanting and re-housing policies for displaced owner occupiers as those to be followed for displaced tenants.

10. Financial implications

- 10.1 The financial implications are contained in the part of the report on Part 2 of the agenda.

11. Human Rights Act 1998 Implications

- 11.1 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. The rights that are of most relevance to local authorities are summarised in Appendix 4 to this report.
- 11.2 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).
- 11.3 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.

- 11.4 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.
- 11.5 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 these against the overall benefits to the community which the redevelopment of the Excalibur estate 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.
- 11.6 It is relevant to the consideration of this issue, that should the scheme proceed all displaced occupiers would be offered re-housing in accordance with the Council's re-housing policy. Secure tenants will be entitled to home loss and disturbance payments. Freeholders will be entitled to receive market value for their properties as well as (for owners who have been resident for 1 year or more) home loss and disturbance payments.

12. Environmental Implications

- 12.1 The proposed new homes to be built by London & Quadrant would exceed the requirements of the Decent Homes Standard; this means greater energy efficiency, reduced maintenance costs and lower fuel bills for residents. This would also reduce the environmental impact of the new homes.
- 12.2 As new landlord L&Q would develop minimum standards that tenants can expect from their home. A key part of that would be the affordability and sustainability of the energy usage. The homes are designed using principles of passive solar design and have been modelled by energy consultants to ensure high thermal comfort whilst keeping heat loss to a minimum. This includes making the home air tight through construction detailing and incorporating a heat recovery ventilation system to further reduce energy loss and provide homes with fresh air. The Greater London Authority requires this scheme to achieve 20% renewable energy and a Code for Sustainable Homes level 3-4, as a minimum; both pieces of legislation necessitate an energy efficient home.

13. Crime and Disorder Implications

- 13.1 One of the key priorities of the TMO Resident Selection Committee in selecting a preferred RSL was how it tackles crime and anti social behaviour issues. L&Q has a strong track record in dealing with crime and anti-social behaviour (ASB) and they are committed to adopting a robust approach at Excalibur if needed. L&Q plays its part as a member of Lewisham's Crime Reduction Partnership in meeting targets and actions in the Local Community Plan and the Crime Disorder Strategy. They would work in partnership with the police and other agencies to tackle crime and ensure that safety at Excalibur is maintained and improved.
- 13.2 The Regeneration Proposals document outlined the proposed physical improvements, enhanced estate management and the diversionary opportunities which L&Q would implement to help reduce crime and anti-social behaviour. Under stock transfer, the Offer Document also demonstrated L&Q's commitment to tackling race and hate crime, domestic violence and improving child protection, which the residents of Excalibur seek. These principles would be unaffected by the change from a stock transfer to a regeneration scheme.

14. Equality Implications

- 14.1 Officers have reported on the likely equalities implications for this scheme as below and an Equalities Impact Assessment is included here as Appendix 3.
- 14.2 There are equalities implications in the decanting and re-building process and equalities benefits would accrue from the completed scheme.

Equalities implications: during the process

- 14.3 From extensive door knocking, L&Q staff have begun to build up a database of households that have English as a second language and as a result key information would be translated for them, if needed. In addition, a number of residents have also been identified who suffer from a visual impairment, so literature for them is routinely produced in larger print. These are exercises that would continue to be monitored and repeated.
- 14.4 The decant process involves the provision of an individual service, where decant officers visit tenants at home and get to know them and their needs on an individual basis. Any special requirements are identified and taken into account in planning the move, factors such as language, mobility and other support needs often need to be considered. It is recognised that decanting is a very stressful time and decant officers would offer as much support as required to minimise the anxiety to residents.

Equalities implications: the completed development

- 14.5 The scheme would provide thermal and security improvements, with all new properties more than meeting the decent homes standard.
- 14.6 All new affordable units in the development would meet lifetime homes standards. A Lifetime Home incorporates 16 design features that together create a flexible blueprint for accessible and adaptable housing in any setting, so that the unit can be adapted when required to suit residents changing needs.
- 14.7 In line with GLA and Council policy, more than 10% of units across the development would be wheelchair accessible or easily adapted for those using a wheelchair.

15. Conclusion

- 15.1 This report updates Mayor and Cabinet on progression with Phase 1 and plans for Phase 2 of the re-development of Excalibur.

16. Background papers and report author

- 16.1 There are no background papers to this report.
- 16.2 If you would like further information on this report please contact Rachel George on 0208 314 8146.

Appendix 1 – Current estate and phasing

Appendix 2 – Proposals Master plan