

<b>Mayor and Cabinet</b>			
<b>Report Titles</b>	Regeneration of Excalibur Estate – Phase 3 CPO		
<b>Key Decision</b>	Yes		
<b>Ward</b>	Whitefoot		
<b>Contributors</b>	EXECUTIVE DIRECTOR FOR CUSTOMER SERVICES, EXECUTIVE DIRECTOR FOR RESOURCES & REGENERATION, HEAD OF LAW		
<b>Class</b>	Part 1	<b>Date</b>	13 November 2013

## **1. Summary**

- 1.1 On 17th September 2010, Mayor and Cabinet agreed that the Council proceed with the regeneration of Excalibur in partnership with L&Q. This followed on from the positive ballot of residents that took place in July 2010 and also following the subsequent statutory Section 105 consultation that was carried out in September 2010.
- 1.2 Phases 1 and 2 have been undertaken together. The Council bought back 7 freehold interests and has re-housed all but 1 tenant by agreement. The Council has agreed an overarching financial model and Development Agreement with L&Q and obtained consent from the Secretary of State to dispose of the site to L&Q (following Mayor and Cabinet approval). The final tenant is in the process of moving and legal action is being taken to ensure vacant possession. The site is currently being hoarded prior to demotion and building works taking place which are to commence once Planning conditions have been met.
- 1.3 Phase 3 of the scheme is now underway with the tenant decant starting in April 2013. The Council and L&Q have builder Denne in place for Phases 1, 2 and 3. Phase 1 and 2 build is due to be complete in Spring 2015, with the new rented homes then available for tenants in Phase 3. When vacant, the Phase 3 site will then be ready for demotion and the next Phase of building works. In order to meet this timetable, the Council is required to provide vacant possession of the Phase 3 site in the Spring of 2015. To ensure this is possible, Officers are seeking authority to proceed with a Compulsory Purchase Order in respect of the land comprising the Phase 3 site

## **2. Purpose of Report**

- 2.1 To update Mayor and Cabinet on the progress of the Excalibur Regeneration Scheme.

- 2.2 This report seeks authority to proceed with all necessary statutory procedures to obtain a Compulsory Purchase Order (CPO) for the compulsory acquisition of all interests in the land and buildings, other than those interests already in the ownership of the Council, within Phase 3 of the Excalibur regeneration site, which is shown by a thick black verge on the plan attached as Appendix 1.

### **3. Recommendations**

It is recommended that the Mayor:

- 3.1 resolves to make a Compulsory Purchase Order in accordance with Section 17 of Part II of the Housing Act 1985 and the Acquisition of Land Act 1981, for the compulsory acquisition of all interests in the land and buildings known as Excalibur Phase 3, the site of which is shown by a thick black verge on the plan attached as Appendix 1, other than those interests already in the ownership of the Council;
- 3.2 delegates authority to the Executive Director for Resources and Regeneration, in consultation with the Head of Law, to determine the final extent of the land to be included within the Compulsory Purchase Order provided that the Compulsory Purchase Order shall not include any additional land outside the area shown by a thick black verge on the plan attached as Appendix 1;
- 3.3 authorises the appropriate Chief Officers to take such other action as may be necessary to make, obtain confirmation and effect the Compulsory Purchase Order and to acquire all interests under it; and
- 3.4 delegates authority to the Executive Director for Resources & Regeneration (in the event that the Secretary of State notifies the Council that it has been given the power to confirm the Compulsory Purchase Order) to confirm the Compulsory Purchase Order if the Executive Director for Resources & Regeneration is satisfied that it is appropriate to do so. 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.

### **4. Policy Context**

- 4.1 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.

- 4.2 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 would also develop opportunities for the active participation and engagement of people in the life of the community.
- 4.3 The scheme supports the aims of Lewisham's Housing Strategy 2009-2014 'Homes for the future, raising aspirations, creating choice and meeting need' and would deliver on its main themes of 'People, homes and places and Quality and sustainability'
- 4.4 The scheme would increase local housing supply and by introducing a range of housing types and tenures for a range of income households, the scheme would help to widen housing choice. By obtaining funding from the HCA 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 would deliver 61% 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.

## **5. Background and Resident Involvement**

- 5.1 There is a long history of the Council working with the Tenant Management Organisation and other groups of Excalibur residents on the future of the prefab estate. This has included consultation groups and events, surveys and working with independent tenant advisors as detailed below.
- March 2002 – Council workers start to meet with Excalibur TMO and its Transfer of Ownership committee, pursuing a Stock Transfer option
  - September 2003 PPCR survey undertaken to explore views on future ownership of the estate
  - December 2003 Options Appraisal Steering Group established by LBL to ensure residents were at the heart of the process
  - January 2004 Savills Stock condition survey said that 100% LBL homes non-decent
  - July 2004 weekly meetings take place and open day planned. Meeting with PPCR held
  - In November 2004, Minutes of the Stock Appraisal Steering Group record that Excalibur was keen to get on the ODPM's stock transfer list for January 2005.
  - December 2004 visit to Family HA, Presentation HA, Hyde HA and Aragon HA. Letter sent to Adams Consulting re: tests on the

prefabs of wall, floor and roof content. Signed off framework application for ODPM programme.

- January 2005, LBL submit application for the ODPM Housing Transfer Programme
- March 2005 residents group accepted Adams Consulting tests costs needed to bring homes up to DHS.
- April 2005 ITAs interviewed – Solon appointed
- June 2005 – Report to Mayor & Cabinet about Lewisham's Decent Homes Strategy recommended M&C to note the transfer programme bid highlighting that members of the co-op had been exploring alternative ownership and management models for over two years and they fully backed the bid.
- Autumn 2005 - Tenants against proposals hold Special General Meeting, Freeholders subcommittee held. Special general meeting held. Way Forward Group set up and meeting held. Management Committee minutes say Transfer of Ownership group to continue. Way Forward Group meeting. Open day held.
- November 2005 Report to Mayor and Cabinet – Lewisham Decent Homes Strategy recommending M&C to agree contingency for the Excalibur Co-op. Reports that Surveyors reports have made it clear that refurbishment of existing properties does not represent value for money. The ODPM has made it clear to the authority that they will not provide gap funding for any scheme that does not represent value for money. Residents, working closely with their independent tenants' advisors and technical advisor, have concluded that redevelopment of the estate is the only option remaining in order to meet the Decent Homes standard. A new group of resident, comprised of TMO committee, freeholders and non-committee residents has been established to progress this proposal.
- December 2005 – TMO sacks Solon as ITA
- January 2006 – Bungalow Estate Newsletter goes out introducing Way Forward Group and reiterating to residents refurbishment not an option
- February and March 2006 visits to HA's
- April 2006 RSL selection due to take place but Way Forward Group unable to make a decision
- May 2006 Way Forward Group meeting held with LBL to discuss 'breakdown' of relations with WFG, TMO, Solon and how will affect deadlines (check)
- June 2006 TMO commission TPAS to do survey of estate
- October 2006 Council made aware of a residents Vision Panel
- November 2006 meeting held with TMO, Vision Panel and LBL Officers and councillors to discuss re-engaging
- December 2006 new project officer starts work with Vision Panel on RSL selection
- February 2007 – PWC presentation to Excalibur TMO Working Party about the principles of gap funding.
- April 2007 – L&Q recommended by residents as preferred RSL partner for redevelopment and appointed 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.

5.2 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.

5.3 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 home would be demolished in the proposals. In total, 224 Ballot papers were sent out.

5.4 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. This meant that 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.

5.5 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. The responses to the Section 105 consultation were reported to Mayor & Cabinet on 17 November 2010 and, having considered the responses and the Equalities Impact Assessment, the Mayor agreed that the Council should seek to achieve the redevelopment of the Excalibur estate in partnership with L&Q.

5.6 On the 18<sup>th</sup> January 2012 Mayor and Cabinet agreed a change to the phasing of the scheme. 3 prefabs from later phases are now in the current decant phase so that the sites of these properties can be included in the Phase 1 build site. Mayor and Cabinet agreed this on

the basis of a second Section 105 consultation that took place with residents. A total of 4 responses were received in time to be included. The 4 responses represent a 6% response rate (of the total 140 secure tenants remaining on the estate). 3 were in favour of the proposed change and 1 was neutral, there were no objections.

### **Stock Condition and Financial Options**

- 5.7 A stock condition survey was carried out in 2004 by Savills, which showed that 100% of the tenanted properties did not meet the decent homes standard. The stock condition survey identified that none of the properties on the estate meet the decent homes standard and a total of £8.4m would be required over the next 30 years to deal with catch up repairs, future programme renewals, improvements, contingent major repairs, related assets and the removal of asbestos. Their non-traditional construction means they require extensive structural work to over-clad the properties to improve thermal insulation and extend the life of the properties.
- 5.8 In November 2005 Mayor and Cabinet noted the progress of the Excalibur scheme which had been progressing a proposal to achieve the decent home standard through refurbishment and stock transfer. Following extensive investigations the report concluded that the properties were uneconomical to refurbish. A study by specialist consultants Adams Consulting had concluded that the cost of refurbishing individual properties to the decent home standard was of the order of £65k each, giving an estimated estate refurbishment cost of £9.88M. The report also highlighted concerns over the potentially compromised lifespan of the refurbished buildings. It stated that there is the potential with refurbishment that maintenance problems will be concealed, or that the life cycle of the new elements will not be realised due to the underlying reduced potential of the existing elements. In other words, the refurbishment specification might achieve 60 years or even 85 years, common with new build, but this would need to be shortened due to the limited potential of existing elements.
- 5.9 In 2010, it was estimated that the likely cost of refurbishment based on the same specification were approximately £75k per unit or £11.4M. The current condition of the properties is poor. Windows, roofs and doors need attention in many cases and in 2010, a conservative view of make good costs on windows was estimated at a minimum of £50k. Void costs for the estate have also been typically high, reflecting the underlying problems of maintaining a temporary dwelling. In 2010, costs to voids were estimated at £5k per unit to bring them up to a lettable standard. In comparison, average void costs for Lewisham Homes in the quarter ending December 2009 were £2,455 per unit and average void costs for the Fiveways TMO in were £2,000.
- 5.10 In October 2009 the Council and HCA met as part of the Single

Conversation. The HCA stated at that meeting that they were unable to provide funding to the stock transfer despite it being the favoured option. They also stated that they supported the aim of redeveloping the estate and would consider funding the scheme through the National Affordable Homes Programme if it was not a stock transfer. The Council asked for confirmation of this point in writing so that it could consider a change of approach.

- 5.11 In February 2010 confirmation was received, the HCA stated *'under the rules of the National Affordable Housing Programme the HCA are unable to fund the regeneration of the scheme as a stock transfer, nor is there availability of gap funding under the stock transfer programme. We are of course supportive of the Excalibur regeneration proposals as a key priority for the Council and can, in principle, fund an application for the re-provision of affordable housing under the NAHP, subject to receiving an application for a viable scheme and the availability of funds.'*
- 5.12 The Council had agreed that a stock transfer was the best option for delivering Decent Homes on the estate. However, the HCA then informed the Council that they were not able to gap fund a stock transfer. Having explored the alternative options for delivering Decent Homes on the 24<sup>th</sup> March 2010, Mayor and Cabinet agreed that regeneration scheme provides the best prospects of delivering decent homes to the Excalibur Estate.

## **6. Scheme proposals**

- 6.1 The current estate with proposed phasing is shown in Appendix 2.
- 6.2 The redevelopment of the Order Land by L&Q will produce an attractive and high quality, low energy, sustainable residential development that raises the amenity and image of this part of the Estate. In particular, the scheme will deliver key objectives agreed during the in depth master planning consultation that took place with residents:
- Re-provision of 178 affordable units, enough to re-house all tenants and resident freeholders
  - The new affordable homes on the estate are to be built to Parker Morris Space Standards plus 10%
  - A mix of homes and bed sizes including 30 bungalows to meet needs of existing residents
  - An allocated free parking scheme for all existing Excalibur households, as well as providing a number of visitor parking spaces.
  - A bespoke L&Q Tenancy Agreement for the Excalibur estate.
  - 4 options for freeholders of outright sale, shared equity ownership home buy and reverting to tenancy (as an L&Q tenant on the new estate or elsewhere).

- L&Q would return tenancy succession to zero in the new properties
- A delay in the rent convergence rate
- Affordable homes will meet code for sustainable homes level 4.
- 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.
- 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
- Sensitive inclusion of the 6 listed properties in the master plan design
- New properties to have much higher acoustic ratings than the existing units, reducing noise related problems. They will be better insulated and generally built to a higher standard (plumbing, heating etc) than is possible with refurbishment. They will be very energy efficient, reducing heating costs as providing environmental benefits.

6.3 As a result of the Redevelopment Scheme, there will be a qualitative improvement in terms of the accommodation provided and the standard of the individual properties to be built by L&Q will be significantly improved meeting standards set out above.

6.4 There will also be a qualitative gain in housing provided within the order land and in the scheme overall. There will be an overall quantitative housing gain of 193 dwellings, the total number of dwellings on the Estate increasing from 178 to 371. Of these, 178 will be for social rent, 15 for shared equity (for existing resident freeholders) and 35 for shared ownership. 143 will be for private sale.

6.5 Due to the structure of the prefabs, the re-provision will see an introduction of property type, with houses, bungalows and flats in the new development with a range of property sizes. This will lead to the increase in bed sizes set out in the table below.

Unit Size	Current prefabs	Total in units	Net increase
One beds		41	41
Two beds	178	281	103
Three beds		34	34
Four beds		15	15
<b>Total units</b>		<b>371</b>	<b>193</b>

- 6.6 The proposals underlying the Order form an integral part of the Redevelopment Scheme which is intended to benefit the residents of the Estate and the Estate as a whole. If this first Phase of the Redevelopment Scheme does not go ahead, then the objectives referred to above will not be met and the overall Redevelopment Scheme which the Council is seeking with L&Q will be in jeopardy.

## **7. Scheme Update**

### **7.1 Summary of the principles of this project and progress to date:**

- Mayor and Cabinet agreed the Financial Model, overarching Development Agreement and disposal of the Phase 1 / 2 site in December 2012.
- L&Q obtained outline planning consent for the master plan and detailed planning consent for Phases 1,2 and 3 on 21st April 2011. Formal Planning permission as granted in March 2012 on completion of the S106 agreement.
- GLA consent was granted on the 1<sup>st</sup> June 2011.
- The Phase 1 and 2 decant is almost complete with 32 tenants re-housed off the estate or in later Phase prefabs.
- 7 freeholders were bought back, the final 2 using Compulsory Purchase powers.
- The Secretary of State has approved the Council's application to dispose of the Phase 1 /2 site to L&Q. Contractor Denne have been on site carrying out pre commencement works since March 2013 under licence..
- Denne have carried out pre-commencement surveys and disconnection of services on the Phase 1 /2 site. The hoarding is being erected around the site prior to demolition and new build. Homes are expected to be ready in Spring 2015.
- The Council has visited almost all tenants in Phase 3 to understand their housing needs and preferences. Those that wish to be re-housed away from the estate have started to move. 26 tenants have indicated they may be interested in moving into the new homes to be built in Phase 1 and allocations are underway.
- The Council has employed GL Hearn to negotiate with freeholders in Phase 3 on the Council's behalf.
- Property Guardians Ad Hoc are being used to increase security off the void properties.

## **8. Phase 3 Vacant Possession**

- 8.1 In accordance with the Council's current Allocations Policy, the Council will re-house all secure tenants. L&Q are offering a nil rent shared equity scheme to existing resident freeholders that wish to continue in home ownership in the new development. There is also a commitment to resident freeholders in this regeneration scheme to be

re-housed as tenants should they choose this option. Rehousing would be carried out in accordance with the Council's Allocations Policy and Local Lettings Plan.

- 8.2 All affected tenants are made a Home Loss Payment of £4,700 in addition to reasonable removal expenses and reconnection costs and, if appropriate, an ex-gratia payment based on an assessment visit.
- 8.3 All freeholders are bought back at market value. Resident freeholders receive a 10% Home Loss payment. Non resident freeholders receive a 7.5% Basic Loss payment. All freeholders receive a disturbance payment covering legal and surveyor's costs together with removal costs and other expenses arising out of the CPO. If a freeholder chooses to move away and purchase a new property, the Council will also pay the associated legal and surveyors costs together with SDLT up to 1% of the value of the current property.
- 8.4 There are 9 freeholders in Phase 3. Negotiations with freeholders in Phase 3 began in the autumn of 2013.
- 8.5 All but one of the properties have been inspected by the GL Hearn and one has now agreed terms. The Council will be making every effort to acquire properties by agreement. However, in view of the Council's target to provide vacant possession of Phase 3 by Spring 2015, the Compulsory Purchase Order is required so as to avoid delay and uncertainty and to secure the objectives underlying the Scheme and the funding requirements.
- 8.6 The decanting of the 30 tenanted units has been progressing since April 2013. There are 4 voids, with households having moved away within the borough. Under the commitments made to residents by L&Q, tenants also have the opportunity to move away from the borough permanently to an L&Q property. 4 households have been in discussion with L&Q about this option. The CPO does not cover secure tenants. However in order to obtain vacant possession, the Council will undertake action through the courts if necessary.

## **9. Consultation**

- 9.1 There has been substantial consultation with residents throughout the process to date as set out in paragraphs 5.1 – 5.5.
- 9.2 The original Independent Tenant Advisor (ITA) for the estate was Solon, who were chosen by the TMO through using a formal selection process. Solon worked with Excalibur residents, including the provision of a free phone helpline and newsletters, from 24<sup>th</sup> May 2005 to 19<sup>th</sup> January 2007. The relationship between Solon and the TMO broke down in late 2006 and an attempt at mediation was unsuccessful, so the contract was terminated.

- 9.3 A new ITA, PPCR, was selected on 19<sup>th</sup> January 2007 to support and advise the RSL selection panel and see them to the end of the selection process. Following a further tender with a long-term brief for an ITA undertaken in March 2007, PPCR were again selected to support residents throughout the master planning, consultation and ballot stages of transfer.
- 9.4 In 2007 L&Q were selected as the preferred partner to work up Stock Transfer proposals in conjunction with the residents of the estate and Lewisham Council. To this end, L&Q set up a number of resident consultation groups including a specific design panel known as the Regeneration Forum.

### **Consultation Strategy**

- 9.5 The focus for consultation has always been the current Excalibur community as the majority of new homes will be occupied by these residents. However, it has been recognised that the redevelopment will have a wider reaching impact than simply the current estate. The consultation strategy has therefore been two pronged; consultation with current residents and consultation with the wider community. In this way, we have canvassed a wide spectrum of opinions that have fed into our development plans.
- 9.6 The overall strategy had the following objectives:
- to incorporate local needs and desires into the regeneration proposals
  - to inform residents and the local community about the proposals and development process

### **Resident Consultation**

- 9.7 The cornerstone of the resident engagement strategy has been the formation of various working groups to discuss the development proposals. In particular, a Regeneration Forum was established to discuss the design proposals for the new estate. The Group consisted of the following:
- Residents of the Excalibur Estate
  - Lewisham Council Officers
  - L&Q Officers
  - The Architect (Hunters)
  - The Cost Consultant (BPM)
  - Invited guests (including Cabinet Member for Customer Services, Ward Councilors and local stakeholders)
- 9.7 The Regeneration forum is an open forum for all Excalibur residents and has met on over 35 occasions from November 2007. The group has discussed a variety of issues including master plan design, floor plan layouts, sustainability strategy and parking. Minutes of the Regeneration Forum and other working groups are kept in the Tenant

Management Organisation's office for all residents to access.

- 9.9 Regular evening meetings and a number of Saturday open days were held to consult more widely with residents on the estate .
- 9.10 Newsletters with details of L&Q and Lewisham Council were produced to enable residents to make direct contact with Officers if needed. A Free phone telephone number was set up to enable all residents to contact L&Q.
- 9.11 Due to the specific needs of many elderly and vulnerable residents on the estate, the Council and L&Q also undertook a series of home visits to residents around the estate to explain the regeneration proposals and glean feedback from individual households.
- 9.12 The consultation strategy culminated in the formulation of the Regeneration Proposals that were issued to all residents on the estate. This document formed the basis for a resident vote that was held in July 2010.

### **Wider Community Engagement**

- 9.13 Contact was maintained with the wider community through a series of Saturday open days and a website operated by L&Q, with links to resident newsletters and the project team.
- 9.14 Local organisations including St Marks Church have regularly attended the Regeneration Forum. Local councilors have also been closely involved in the development of these regeneration proposals.
- 9.15 Our detailed proposals for regeneration were presented to the community in an open day on Saturday 06 November 2010, to view the designs, read the Regeneration Proposals, see the 3D models and make comments on the proposals. Officers from L&Q and Lewisham Council were available alongside the scheme architect to speak to all attendees.

### **Consultation – Freeholders**

- 9.16 In addition to all the estate wide consultation, there were 6 separate freeholder consultation sessions in 2008. This included a specific presentation on Equity Ownership from L&Q and an independent financial consultant that PPCR arranged.
- 9.17 As part of the ballot process, in June 2010 a freeholder proposals document was distributed to all freeholders. This set out the options for freeholders within L&Q's development proposals. These are:
- To sell the prefab back to Lewisham Council. All freeholders will be bought back at open market value and paid disturbance costs. In addition, resident owners will receive a 10% home loss payment

and non residents, 1 7.5% home loss payment.

- To become an equity owner in the new development (resident freeholders only). L&Q would require that the freeholder put the entire market value of their current home and a proportion of their home loss payment in order to take up this offer. However, there is no minimum payment or proportion of ownership and owners would not pay rent on the part they do not own.
- To purchase a home through New Build Homebuy. Nationwide Government scheme.
- To become a tenant (resident freeholders only).

9.18 In September 2013 the Council sent a letter to all resident freeholders in Phase 3 to remind them of the re-housing options available to them from the freeholder proposals document. Freeholders were asked to let Council Officers know whether they would like to be considered for re-housing in the new build either to buy under shared equity or to be re-housed as a tenant. The Council will continue these discussions with freeholders.

## **10. Planning Permission for the Regeneration of Excalibur**

10.1 Outline Planning consent for the master plan and detailed consent for Phases 1, 2 and 3 was granted on 21st April 2011. A Section 106 Agreement was entered into on 30th March 2012.

## **11. Funding for the Regeneration of Excalibur**

11.1 L&Q have secured funding from the HCA for the development of Phase 1 /2. Beyond this point, as there is uncertainty about the future of Government grant the Council and L&Q have agreed a bespoke financial model that sets out a pot of funding to enable the scheme to go ahead. This will be monitored throughout the scheme however means that there is funding in place for the scheme.

## **12. Financial Implications**

12.1 Financial provision has already been made for the acquisition of the outstanding interests in Phase 3 of the Excalibur Estate that are not in the Council's ownership as approved by the Mayor & Cabinet on November 10<sup>th</sup> April 2013. It is expected that the provision that has been made will be sufficient to cover a cost to the Capital Programme for the CPO preparation, acquisition and compensation.

12.2 The financial structure of the scheme means that the Council's costs of obtaining vacant possession will be met by L&Q at the point of start on site for that Phase. This means that there is some level of risk as the Council incurs these costs in advance. However, should L&Q not undertake the re-development the Council will have a vacant site and detailed Planning Permission.

### **13. Legal Implications**

- 13.1 Section 17 of the Housing Act 1985 empowers the Council, as a local housing authority, to acquire land, houses or other properties for the provision of housing accommodation. This power is available even where the land is acquired for onward sale to a third party, as long as the purchaser 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. The Council will therefore have to demonstrate such gain when seeking Secretary of State confirmation of any CPO. In deciding whether to resolve to make a CPO, the Mayor should be satisfied that there is sufficient justification for acquiring the land compulsorily and that there is a compelling case for a CPO.
- 13.2 Once the CPO is made by the authority it must be notified to relevant persons and publicised, following which it will be submitted to the Secretary of State for confirmation. Any person may object to a CPO and if an objection is made and not withdrawn, a public inquiry is required to be held. Any public inquiry will be conducted by an Inspector appointed by the Secretary of State who will hear evidence from any persons objecting to the CPO and from the Council. The Inspector would then submit a report on the Public Inquiry and his/her recommendations to the Secretary of State who would then decide whether or not to confirm the Order.
- 13.3 Before confirming the Order the Secretary of State would have to be satisfied, in particular, that there are no planning obstacles to the implementation of the scheme, that the Order would achieve a qualitative or quantitative housing gain and that there is a compelling case for the CPO in the public interest
- 13.4 The process of acquiring and obtaining possession of properties through a CPO may take up to 12-18 months if a Public Inquiry is required before the Secretary of State can confirm the CPO.
- 13.5 The Planning and Compulsory Purchase Act 2004 introduced a new power under which the Council may under certain circumstances, confirm its own Compulsory Purchase Orders. If the Secretary of State is satisfied that the statutory notice requirements have been met, that no objection has been made to the Order (or that any objection made has been withdrawn), and that the Order is capable of confirmation without modifications, then he may notify the Council that it has the power to confirm the Order itself. Should the Council be given this power, then before confirming the Order, it would need to be satisfied that the matters referred to at paragraph 13.3 are satisfied.
- 13.6 The Equality Act 2010 (the Act) brings together all previous equality legislation in England, Scotland and Wales. The Act includes a new

public sector equality duty (the equality duty or the duty), replacing the separate duties relating to race, disability and gender equality. The duty came into force on 6 April 2011. The new duty 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.

13.7 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.

13.8 As was the case for the original separate duties, the new 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.

13.9 The Equality and Human Rights Commission issued guides in January 2011 providing an overview of the new equality duty, including the general equality duty, the specific duties and who they apply to. The guides cover what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guides were based on the then draft specific duties so are no longer fully up-to-date, although regard may still be had to them until the revised guides are produced. The guides do not have legal standing unlike the statutory Code of Practice on the public sector equality duty, However, that Code is not due to be published until April 2012. The guides can be found at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/new-public-sector-equality-duty-guidance/>

#### **14. Human Rights Act 1998 Implications**

14.1 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.

14.2 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).

14.3 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.

- 14.4 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.
- 14.5 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 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.
- 14.6 It is relevant to the consideration of this issue, that should the scheme proceed secure tenants and resident freeholders will be offered re-housing as set out in paragraph 8.1. 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 Home Loss/Basic Loss payments and disturbance payments where appropriate in accordance with the Land Compensation Act 1973

## **15. Environmental Implications**

- 15.1 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.
- 15.2 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.

## **16. Crime and Disorder Implications**

16.1 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.

16.2 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.

## **17. Equality Implications**

17.1 Officers carried out an Equalities Impact Assessment in October 2010. This has been updated to reflect the new public sector equality duty contained in the Equality Act 2010.

17.2 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**

17.3 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.

17.4 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 offer as much support as required to minimise the anxiety to residents.

### **Equalities implications: the completed development**

- 17.5 The scheme would provide thermal and security improvements, with all new properties more than meeting the decent homes standard.
- 17.6 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.
- 17.7 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.

### **18. Conclusion**

- 18.1 Adoption of the proposals in this report is critical to the implementation of Phase 3 of the regeneration of Excalibur. This forms part of the overall regeneration of the Excalibur Estate which is one of the Council's priorities.
- 18.2 In order to facilitate L&Q's proposed housing redevelopment scheme for Excalibur to proceed to schedule and for the Council to avoid incurring costs due to any delays caused in delivering vacant possession of the property, it is considered prudent and essential that the Council resolves to make the necessary Compulsory Purchase Order for the compulsory acquisition of all interests in the land and buildings known as Excalibur Phase 3, the site of which is shown by a thick black verge on the plan attached as Appendix 1, other than those interests already in the ownership of the Council.

### **19. Background Documents and Report Author**

- 19.1 There are no background documents to this report.
- 19.2 If you require any further information about this report, please contact Rachel George on 020 8314 8146.

## **Summary of human rights most relevant to local authorities**

Article 2 - The right to life

Article 3 - The right not to be subjected to torture or to inhuman or degrading treatment or punishment

Article 5 - The right to liberty and security

Article 6 - The right to a fair trial

Article 8 - The right to respect for private and family life, the home and correspondence

Article 9 - The right to freedom of thought, conscience and religion

Article 10 - The right to freedom of expression

Article 11 - The right to freedom of peaceful assembly and to freedom of association with others

Article 14 - The right to freedom from discrimination on any ground such as sex, race, colour, language, religion, or political opinion

Article 1 of Protocol 1 - The right for every person to be entitled to the peaceful enjoyment of their possessions

Article 2 of Protocol 1 - The right to education