

<b>MAYOR AND CABINET</b>			
<b>Title</b>	Besson Street Re-development and Private Rented Sector Housing		
<b>Key decision</b>	Yes	<b>Item no</b>	
<b>Wards</b>	Telegraph Hill		
<b>Contributors</b>	Executive Director for Customer Services, Executive Director for Resources and Regeneration, Head of Law		
<b>Class</b>	Part 1	13 July 2016	

## **1 Summary**

- 1.1 It is widely acknowledged that London is experiencing a housing crisis, with a chronic lack of supply of new homes driving higher prices and decreasing levels of affordability. This crisis affects all tenures, ranging from the introduction of affordable rents in the social housing sector, through rapidly growing rents in the private rented sector, to median house prices in Lewisham that are more than ten times the median income.
- 1.2 In 2015 the Council approved its five year housing strategy, Homes for Lewisham, which committed the Council to taking action across all housing tenures to drive up supply and improve conditions. This includes a commitment to working in partnership to secure 2,000 new affordable homes in the borough by 2018, of which at least 500 will be new Council homes, in a programme which includes a range of innovative and community-led developments to provide the type and quality of homes that Lewisham needs. The strategy also includes a new landlord licensing scheme to drive up quality in the private rented sector. The Council will work in partnership across the private and public sectors to meet the overall housing target of 1,200 new homes every year.
- 1.3 Homes for Lewisham also committed to supporting the development of new models of private renting which offer a more stable, higher quality PRS offer by professional landlords, potentially including the Council itself. In this way, the Council can contribute to creating a more sustainable private rented sector in the borough, and design interventions which mean that council-led PRS schemes achieve the following aims:
- Provide high quality new homes
  - Provide an additional form of stable and affordable housing to support low income households in the PRS, who would neither

qualify for social housing nor be able to access home ownership, by developing a “Living Rent” product to provide sub-market PRS tenancies with rents linked to incomes;

- Provide longer-term tenancies to give greater stability to renters
- Create new places, including community facilities, open spaces and retail/leisure
- Provide a high quality property management and maintenance service
- Attract institutional investment into the borough at a time of financial challenges
- Seek to structure projects so that they deliver best value to the council depending on the scheme, including the potential to generate an ongoing income for the Council

- 1.4 A report was bought to Mayor and Cabinet in December 2015, with a proposal that the Council undertake a pilot project, at Besson Street in New Cross, in which the Council would handle public land in a new manner in order to enable the site to be developed for high quality, secure PRS homes let at a range of rents. This pilot project would see the Council participating in a Joint Venture vehicle specifically for the purpose of developing PRS homes and the regeneration of the Besson Street area. The Joint Venture vehicle would be between the Council and an experienced organisation which would bring expertise, housing management and development funding. In order to create this Joint Venture vehicle the Council would select an investment partner with an excellent track record of developing high quality places, with a PRS offer to tenants that can set the standard for the PRS in the borough, and with sound financial backing from institutional funders.
- 1.5 This policy intervention is designed to introduce a new type of housing development into the Council’s development programme, beyond and in addition to the 500 Council homes on which progress is well underway. It is designed to create around 250 homes. 65 per cent of these homes will be let at an initial market rent, but with rent increases capped in line with inflation. This will provide renters with more certainty about their rent at a time when market rents can increase by 10 per cent a year. A further 35 per cent of homes will be affordable homes based on a new “Living Rent” product, which would be linked to 35% of net income at London Living Wage levels.
- 1.6 All of these homes would provide much more certainty for renters, with the removal of lettings fees and provision of clarity about future rent increases. They would provide a higher quality rented home, as well as on-site community uses and facilities that reflect the rents that are paid. A key difference between PRS build to rent and other rented options is that there are no service charges, and all costs are contained within the rent, further improving the offer to tenants.
- 1.7 Overall this proposal would enable the Council to make an innovative intervention into the Private Rented Sector in order to provide a better

deal for renters. It would set a high standard for the quality of PRS that other developments and landlords can be judged against. It would introduce a new affordable housing product, "Living Rent", aimed at households who struggle to sustain themselves in the PRS but who, given the nature of the housing crisis, do not meet the criteria to be allocated social housing. At the same time, the programme of Council house building will continue, on other sites, in order to achieve the 500 home target.

- 1.8 This report is in two parts. This part one report updates Mayor and Cabinet on the work carried out on the recommended approach, as well as the timetable and the next steps, and deals with the appropriation of part of the site from housing purposes to planning purposes.

## **2 Recommendations**

- 2.1 It is recommended that the Mayor:
- 2.2 Notes the process carried to date as set out in section 6.
- 2.3 Agrees that the Council pursue the scheme for Besson Street, to deliver around 230 homes for private rent with 35% at "living rent" levels through partnership with a joint venture partner, as set out in paragraph 6.8.
- 2.4 Notes the Strategic case for this approach in sections 4 and 5.
- 2.5 Agrees to the appropriation of the Council owned land shown hatched black on the attached plan 1, from housing purposes to planning purposes under Section 122 of the Local Government Act 1972 as set out in section 10.
- 2.6 Agrees that Officers investigate future sites for further delivery as set out in section 11.
- 2.7 Note the position and work carried out to date on the Achilles Street estate as set out in section 12.

## **3 Policy Context**

- 3.1 The contents of this report are consistent with the Council's policy framework. It supports the achievements of the Sustainable Community Strategy policy objectives:
  - Ambitious and achieving: where people are inspired and supported to fulfil their potential.
  - Empowered and responsible: where people can be actively involved in their local area and contribute to tolerant, caring and supportive local communities.
  - Healthy, active and enjoyable: where people can actively participate in

maintaining and improving their health and well-being, supported by high quality health and care services, leisure, culture and recreational activities.

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

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

3.3 Lewisham's Housing Strategy was approved at Full Council in May 2015. This strategy sets out the Council's ambition to address the challenges in the borough through the following 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 greater quality in the social and private rented sectors

3.4 Lewisham's Core Strategy has the objective to make provision for the completion of an additional 18,165 net new dwellings from all sources between 2009/10 and 2025/26, to meet local housing need and accommodate the borough's share of London's housing needs. This aims to exceed the London Plan target for the borough. The Core Strategy also has the objective to make provision to meet the housing needs of Lewisham's new and existing population, which will include:

- provision of affordable housing
- a mix of dwelling sizes and types, including family housing
- lifetime homes, and specific accommodation to meet the needs of an ageing population and those with special housing needs
- bringing vacant dwellings back into use

3.5 In response to this, the Council has started to deliver homes directly itself for the first time in a generation, and will deliver 500 new Council homes by 2018. In addition, the Council is working with partners to deliver an additional 1,500 new affordable homes in the same time period.

3.6 Despite this, there remains an undersupply of housing in the borough and the Council remains ambitious to do more to address this directly, as well as continuing to work with partners to maximise the number of new homes they deliver.

3.7 A number of recent policy announcements by the government have

made the delivery of new homes by the Council more challenging, and require the Council to explore new ways of delivering homes. The reduction of social rents by one per cent, contained in the Welfare Reform and Work Act, will reduce the financial capacity of the Council's Housing Revenue Account by approximately £25 million over the next four years. This means that the capacity to deliver new social housing beyond the current 500 home programme funded within the Council's Housing Revenue Account is limited.

3.8 This context requires the Council to explore new ways of developing new homes. The 2011 Localism Act gave local authorities a general power of competence. This creates new opportunities in terms of the Council's strategy for delivering new homes.

3.9 Homes for Lewisham, the Council's Housing Strategy for 2015 to 2020, committed to supporting the development of new models of private renting which offers a more stable, higher quality PRS offer by professional landlords, potentially including the Council itself. In this way, the Council can contribute to creating a more sustainable private rented sector in the borough, and design interventions which mean that council-led PRS schemes achieve the following aims:

- Provide high quality new homes
- Create new places, including community facilities, open spaces and retail/leisure
- Provide longer-term tenancies to give greater stability to renters
- Provide a high quality property management and maintenance service
- Cap rent increases in line with inflation to provide certainty for renters
- Provide properties which are let at a Living Rent linked to local incomes.
- Attract institutional investment into the borough at a time of financial challenges
- Seek to structure projects so that they deliver best value to the council depending on the scheme, including the potential to generate an ongoing income for the Council

## **4 Background**

4.1 The housing situation in Lewisham is part of the wider picture of housing in London. London's housing market is characterised by an enduring undersupply of new homes against a growing population. This has caused house prices to increase significantly – higher than they were before the economic crisis.

4.2 London's population is forecast to increase by 1.5 million people by 2030 to a population of 10 million. London is currently growing by 50,000 – 60,000 households a year. This means that London needs 500,000 new homes over the next decade. Currently, an average of 27,000 new

homes are delivered each year in London whilst in the last decade 194,000 new homes were built.

- 4.3 The average house price in London is now £530,000, a 13.5% increase in the past year, whilst research by Halifax bank showed that the average deposit of a first time buyer in London is now over £90,000. Rising house prices have caused a significant increase of the private rented sector (PRS). The PRS in London has doubled in the last ten years – and in some boroughs increased by over 200%.
- 4.4 In Lewisham the Private Rented Sector has doubled in size in the past ten years and around 25 per cent of Lewisham's population now lives in the PRS. Over half of residents who live in the Private Rented Sector in Lewisham are under the age of 34, whilst a further 35 per cent are aged 35 to 49. A third of PRS households in Lewisham are families with children whilst a quarter are occupied by single adults. Therefore the supply and quality of homes in the PRS is an issue which is particularly pertinent to younger people in the borough and young families.
- 4.5 Most tenancies in the PRS are Assured Shorthold Tenancies with little security of tenure and with a fixed period of as little of 6 months. These tenancies may be brought to an end by the landlord on a 'no-fault' basis, by service of a section 21 Housing Act 1988 notice of seeking possession. The nature of the current housing market means that individual landlords may evict tenants through this process in order to seek to charge higher rents to new tenants, or to sell the property. The sector also has challenges in relation to the cost of access and lettings fees, whilst many renters often receive a poor service in terms of repairs and property management.
- 4.6 PRS rents are increasing much more quickly than incomes and many tenants pay more than half their net income in rent. As of March 2016 the median weekly rent for a two-bedroom property in Lewisham was around £300. This represents an increase of over 30% on the median monthly rent for a two-bedroom property in 2010/11. In SE14 where the Besson Street site is located, rental growth in has averaged 21.3% over the last 12 months and 34.6% over the last 2 years.
- 4.7 In the July 2015 budget, the Local Housing Allowance (LHA) – which is the maximum amount of housing benefit which can be claimed in the private rented sector – was frozen until 2020. This means that more and more properties in the PRS will be unaffordable to households which rely on housing benefit, as rents in Lewisham are forecast to continue to rise but LHA rates remain frozen.
- 4.8 All of the factors outlined above concerning housing supply and affordability have contributed to an increase in homelessness. In Lewisham there has been an 89% increase in the number of households in temporary accommodation between 2010/11 and 2015/16 – as at the end of March 2016 there are currently 1,750 homeless households in

temporary accommodation. Over the same period, the number of households on the waiting list for social housing has grown from approximately 7,500 to over 9,250, of which 1,750 were those owed the main housing duty. It is projected that during 2016/17, 901 properties will become available to let of which 548 will be suitable for households with children.

4.9 In over 54% of acceptances the main reason for homelessness was the end of a private rented sector assured shorthold tenancy, and in the majority of these cases the AST was terminated. This represents a continuation of the trend seen in previous years.

4.10 The Council has taken a number of steps to address this challenge, principally by committing to build 500 new Council homes – the first Council homes built in Lewisham in a generation. It is bringing forward new homes in a wide range of approaches, as part of a wider strategy for ensuring that sufficient new homes are developed, across all tenures, and that new supply of homes meets the boroughs needs in particular for affordable housing. The wide-range of approaches being deployed at present are set out in the table below:

	Programme	Model	Example	Comments
1	Housing Revenue Account Programme	This programme is funded through the Council's Housing Revenue Account, making use of Right To Buy receipts and reserves/borrowing.	The element of the Council Homes programme managed by Lewisham Homes is funded through the HRA.	The one per cent rent cut has reduced the forecast income of the HRA by approx. £25m, whilst the HRA is already subject to a number of rules around how much it can borrow. The Council will also be required to consider selling high value properties in the near future, with the proceeds sent to central government. These factors limit the capacity to build new homes in the HRA beyond the current programme.
2	Estate Regeneration	Due to the scale and complexity of estate regeneration, the Council usually partners with a Housing Association to manage the process from decanting existing tenants through to the various phases being built and let.	Current regeneration projects include Heathside and Lethbridge (with Family Mosaic) and Excalibur (with L&Q).	In these projects, the Council brings in external financing and project management to deliver new and improved homes, with the Housing Association owning and managing the estate at the end.
3	Sell land to partner	In some cases the Council will sell land to a selected partner in order to facilitate a certain type of	The Council has worked with Pocket Living to bring about a development of 26 new homes for affordable	This approach is considered where the Council's priorities around housing supply can be best met by working with a specialist partner, eg low cost

	Programme	Model	Example	Comments
		development.	home ownership at Marischal Road.	home ownership, Extra Care housing
4	Community Land Trust	Community Land Trusts are an innovative form of delivery where the Council transfers land into community ownership.	The council is currently working with RUSS to create a CLT at Church Grove (a fully affordable self-build CLT) and also with Lewisham Citizens to create a possible second CLT at Brasted Close.	CLTs form a major part of the Council's delivery strategy, and Lewisham is currently the only borough with two CLTs in its pipeline. The nature of this model means that currently developments tend to be small due to the capacity of the community organisations to raise finance etc, but the Council will continue to support CLTs as the model matures.
5	Joint Venture	This is a different way of working with a partner organisation, where the Council enters into a joint venture in which it retains a stake in the development.	Proposed model for Besson Street	This approach is most appropriate for large and high value developments where the council needs to bring in external finance and expertise, and to share risks that otherwise could jeopardise mainstream service delivery. The advantage of the joint venture model is that the council retains a stake in the development so can seek longer-term benefits, and exercise much greater influence over tenure, rents and build quality.
6	Working with Housing Associations	The Council continues to work with Housing Associations to facilitate their development programmes.	The Council has provided grant funding to Phoenix Community Housing on two of their schemes: Hazelhurst Court Extra Care scheme and Forster House.	Housing Associations are important delivery partners and the council will always look at what role it can play to help them increase the supply of affordable housing in the borough.

4.11 Given the scale and complexity of the Besson Street site, the pressure on Council resources from the wide range of development options set out above, the priority to intervene in the private rented sector to drive up standards and quality, and yet to manage risk and complexity, it is proposed that the Besson Street development be taken forward as a joint venture with a private sector partner.

4.12 The full background to this report can be seen in the report Besson Street Re-development and Private Rented Sector Housing, approved by Mayor and Cabinet on the 9th December 2015.

<http://councilmeetings.lewisham.gov.uk/documents/s40265/Besson%20Str>

## **5 Background to Besson Street Project, and proposed development**

- 5.1 The Besson Street site is a 2.5 acre plot of land within the 'Kender triangle' in New Cross. The site was previously assembled as part of the New Cross New Deal for Communities (NDC), although is wholly owned by the Council. The site has been vacant since 2007, as the previous planning permission for the site developed by the NDC was not built due to financial constraints.
- 5.2 The brief for the site includes some of the key original concepts from the NDC initiative of healthy living; the replacement Queens Road Doctors surgery; outdoor gym and community space. This was added to Council objectives such as maximising the quantum of development while creating a new place and access routes.
- 5.3 In December 2015, officers presented proposals for developing the Besson Street site to the Housing Select Committee and subsequently to Mayor and Cabinet. The scheme proposal was to deliver:
- 230 to 250 homes for purpose built as "build to rent" homes to be brought forward by a new joint venture company in which the Council would have a stake and from which it would derive an on-going revenue stream;
  - Approximately 35 per cent, or between 80 and 90 of these, to be affordable homes let at "living rent" linked to the London Living Wage, distributed throughout the entire development rather than in a separate block
  - A replacement health centre for the Queens Road Surgery
  - New office space for the New Cross Gate Trust
  - High quality amenity spaces, public realm and an outdoor gym
- 5.4 The agreed principle was that the site should be delivered through a joint venture (JV) partnership between the Council and an experienced private sector partner, in order to bring in expertise and share risk.
- 5.5 Mayor and Cabinet agreed that officers should develop the proposals in more detail, working alongside specialist legal, financial and property advisors in order to make final recommendations in relation to:
- The optimal commercial and legal structure of the partnership;
  - The preferred governance and decision making structures;
  - The proposed approach to selecting a private sector partner, and a timetable for doing so.

## **6 Progress and Update**

- 6.1 Since the December 2015 Officers have been developing these final recommendations, such as the expected rent levels, optimal bed size

mix, specification of the units and car parking. A bespoke financial model has been created to test the viability of the scheme and the relative investment levels required of the partners, alongside the potential returns once the project has completed. The culmination of all of this work is a clear understanding of how the scheme will work, what the outcomes could be for the Council, and a comprehensive commercial proposition to enable the Council to select an investment partner.

- 6.2 The assessment of the financial model is that the scheme, including the affordable housing parameters set out above would be acceptable to potential funding partners. On that basis officers have carried out a second round of soft market testing to test the scheme and assumptions to ensure that proposals are attractive to the market and therefore deliverable. Meetings were held with eight organisations, a range of PRS developers/ operators and investors. Key aspects discussed included the scheme characteristics, rent and discount levels, JV structure, required levels of return and procurement process.
- 6.3 This exercise created valuable feedback from the market about some specific aspects of the scheme, including procurement. Feedback from the potential partners was positive around a transparent procurement process, however all advised that a limited number of three organisations should be invited to tender to gain maximum buy-in. Overall, discussions have shown that the proposals are attractive to the market
- 6.4 It should be noted that the actual scheme design as developed by Assael Architects and consulted on with the local community in December 2015 has not changed.
- 6.5 In summary, officers propose to recommend to take a scheme to market with the following key attributes:
  - The scheme currently has 232 homes, with 55 per cent as two-beds, 25 per cent as one-beds and 20 per cent as three-beds;
  - 35 per cent of homes will be affordable, and will be let at “living rent” to people who live or work in Lewisham and who meet the income criteria;
  - “living rent” is based on the London Living Wage. It assumes that two earners occupy each flat, each paying 35 per cent of their net income on rent;
  - The Doctors surgery, community and amenity space aspects all remain;
  - The scheme is intended to be exemplar and so working with our partner Officers will seek to maximise tenancy length and promote stability for residents.
  - That the procurement of an investment partner take place on this basis, using a process which:

- Has an open initial stage, to be followed a sifting process and then a more detailed final stage in which the number of potential partners is limited to three;
- enables decisions to be made at a later point about the level of investment the Council makes, albeit where the Council's preference is to create a 50:50 joint venture partnership.

## **7 Rents, security of tenure, affordability and nominations**

- 7.1 The proposals agreed by Mayor and Cabinet in December 2015 set out that 65% of the new homes would be let at a market rate and that 35% of the properties will be affordable homes, let at "living rent" linked to the London Living Wage. It assumes that two earners occupy each flat, each paying 35 per cent of their net income on rent;
- 7.2 The scheme has been taken forward using these principles, as described in paragraph 6.5 above. It will be essential to be able to deliver housing as part of this development that is genuinely affordable for local people. This does not present a barrier to the market; many of the current market leaders are already familiar with the requirement to provide affordable housing as an integral part of build to rent developments, and in some cases are already doing so.
- 7.3 As outlined in 4.5 above, security of tenure is a general problem in the private rented sector. A significant advantage of bespoke build-to-rent developments is the additional security that renters can benefit from. The industry is in its infancy, yet already tenancies tend to be for a minimum of five years. As part of this development, officers will seek to extend that tenancy period, to provide even greater levels of security, and intend to use this as one part of the procurement and negotiation process that will follow in the next stage of this project
- 7.4 It is likely that these new homes affordable homes will not be allocated through the Council's existing process for allocating social housing. Nonetheless they will still make a valuable contribution to meeting the Council's housing objectives. This could be achieved, for instance, by signposting clients attending the Housing Options Centre (HOC) to the development, particularly as half of the people seen by HOC are currently resident in the PRS. Additionally the development could be advertised to particular potential target markets, including by advertising their availability in Lewisham Life, local schools and to key worker groups.

## **8 Consultation**

- 8.1 Officers carried out initial public consultation in the lead up to the December 2015 Mayor and Cabinet report and this included talking to local people about the type of development this would be and the way in which it would be delivered. Since this time there has been no design development and the work has focused on technical and delivery

aspects and as such there has been no further public consultation.

- 8.2 Officers will develop a comprehensive consultation strategy, this will be delivered together with the delivery partner ahead of and throughout the statutory Planning process.

## **9 Timetable and next steps**

- 9.1 Officers are seeking approval for the process to select a development partner and set up a Joint Venture vehicle, the detailed basis for which is set out in the Part 2 section of this report. Should this be agreed, the indicative programme is set out below:

Procurement of partner	July 2016 – January 2017
Submission of Planning application	Mid 2017
Start on Site	Early 2018
Completion	Spring/ Summer 2020

- 9.2 Officers are mindful of timescales and the need to deliver the scheme as quickly as possible while ensuring that proper processes are in place to select the right partner, to ensure effective consultation and to develop the design in more detail before a planning application is made. The current timescales that are provided are only indicative and it is possible that certain aspects of this project will take more time than envisaged.
- 9.3 Officers will be able to provide a more detailed and accurate programme as part of the next Mayor and Cabinet report to recommend the selection of a partner and agree the final terms of the scheme following the completion of the procurement process.

## **10 Appropriating the Land**

- 10.1 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 a mixture of housing purposes within the Housing Revenue Account and planning purposes within the General Fund. 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.
- 10.2 The housing land within the scheme was originally part of the Kender Estate. The housing blocks on the land were decanted as part of the Kender Triangle housing masterplan and were demolished in 2008 and the site has been vacant since then. Accordingly, the land is no longer required for the purpose for which it was originally held. The remainder of the land within the scheme is already held for planning purposes as it was specifically acquired by the Council for this purpose when the site was originally assembled.

- 10.3 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 237 of the Town and Country Planning Act 1990, the development of land which has been acquired or appropriated for planning purposes in accordance with planning permission is authorised even if that development would interfere with any interests or rights affecting the land. The effect of the appropriation is to extinguish any such interests or rights.
- 10.4 The purpose of the appropriation of the housing land within the scheme to planning purposes is to facilitate the comprehensive re-development of the Site by ensuring that third party rights do not impede the carrying out of the development and to ensure that all of the land within the scheme is protected and treated in the same way.
- 10.5 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.
- 10.6 The precise design of the scheme is yet to be finalised and consultation with residents and community groups will take place prior to and alongside the formal Planning process. This will include undertaking daylight and sunlight studies to assess and seek to minimise the impact on local properties. Further, the architect will be expected to use key principles of maximising daylight and sunlight, creating attractive amenity spaces and ensuring careful consideration of relationships to neighbouring properties.
- 10.7 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 the loss is likely to cause inconvenience to them and affect the enjoyment of their properties and to substantiate any claim for compensation.

#### **Comments of Head of Planning**

- 10.8 The site is located within the New Cross/ New Cross Gate Regeneration and Growth Area of the Council's adopted Core Strategy (2011) and is a designated site allocation for redevelopment in the Site Allocation Local Plan (2013).
- 10.9 The site forms part of the New Cross/ New Cross Gate district centre and is allocated for mixed use development comprising a doctor's surgery, library, gym, community spaces, crèche and a public square with residential accommodation.
- 10.10 The principle of redeveloping the site for mixed use purposes is

therefore accepted, subject to satisfactorily addressing other planning policy objectives including design, affordable housing and sustainability.

- 10.11 The scheme has yet to be submitted for planning approval, however, officers are in early pre-application discussions and the scheme has been reviewed by the Lewisham Design Review Panel. These discussions remain at an early stage but the scheme will be developed through extensive pre-application discussions and public consultation ahead of a planning application submission.

## **11 Future Sites**

- 11.1 While this new method for delivering a significant amount of housing has been developed for Besson Street there is also the intention to be able to replicate the arrangement as a means of bringing forward new housing developments and the creation of new places. Officers are therefore seeking approval to investigate future sites to test the potential to deliver other opportunities through the same model.
- 11.2 These sites would be tested for their suitability for a build to rent development, based on the learning derived from piloting the approach on Besson Street, in relation to location, size and land value. Officers would seek to create options in relation to a medium-term development programme of build to rent development, to enable further decision making by Mayor and Cabinet in due course.

## **12 Achilles Street**

- 12.1 The Achilles Street Estate is also situated in the North of the borough, on the other side of New Cross to Besson Street. The estate currently provides 87 homes across four blocks: Azalea, Fenton, Austin Houses and 363 New Cross Road. Within the estate there are 56 tenants and 31 leaseholders; approximately half of whom do not live on the estate.
- 12.2 Achilles Street is being considered for development as part of the New Homes, Better Places programme, and it was initially there was a proposal to deliver an infill development on a garage site within the estate boundary. However after initial investigations into the quality of the existing blocks and the use of space on the estate, it has been reassessed for potential wider scale regeneration.
- 14.3 Officers are currently in the early stages of developing proposals for the regeneration of the estate. Early design work that has been carried out in partnership with Karakusevic Carson Architects, Bell Philips Architects and 5th Studio Architects indicates that there is the potential to re-provide the existing accommodation to a higher standard, increase the number of homes on the site and meet wider place making and regeneration objectives in this key part of New Cross.
- 14.4 Two consultation events about proposals to deliver new homes on

Achilles Street have been held with residents and other key stakeholders. The first event in February 2016, which was followed up by officers with visits to residents on the estate, asked residents their views on their homes and local area. The second consultation event was held in May and discussed potential options for regenerating the estate and the implications this would have for current residents. Officers are currently using the feedback gained from these consultations to further develop proposals for the regeneration of the estate.

14.5 Should Achilles Street be taken forward as a regeneration scheme it will be essential to re-provide Council homes for tenants and provide options for resident leaseholders to remain in home ownership. Beyond this, there could be potential to provide new homes in a variety of tenures including private rent and at London Living Rent levels. Given the potential for the area and proximity to Besson Street it may be possible for the Achilles Street to be delivered through the same joint venture structure as Besson Street.

14.6 A further consultation event is to be held in the autumn this year once further design and cost analysis has been carried out, to update residents on how the proposals are progressing. Officers propose to bring a report to Mayor and Cabinet following this to consider whether the scheme is taken forward.

### **13 Financial Implications**

13.1 The financial implications are contained within the Part 2 report.

### **14 Legal Implications**

14.1 The Council has a wide general power of competence under Section 1 of the Localism Act 2011 to do anything that individuals generally may do. The existence of the general power is not limited by the existence of any other power of the Council which (to any extent) overlaps the general power. The Council can therefore rely on this power to establish and participate in a Joint Venture vehicle as proposed.

14.2 There are a number of advantages for the Council with using a Joint Venture approach, whilst still enabling the Council to exercise the necessary controls as an equity investor in the Joint Venture vehicle and through the governance arrangements and structure that will be put in place.

14.3 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.

14.4 Section 237 of the Town and Country Planning Act 1990 is engaged by an acquisition or appropriation of land by a local authority for planning

purposes. Reference to the appropriation of land for planning purposes is a reference to the appropriation of it for purposes for which the Council could have acquired the land for planning purposes contained in Sections 226 (compulsory acquisition) and 227 (acquisition by agreement) of the 1990 Act.

14.5 Section 226(1)(a) empowers the Council, on being authorised by the Secretary of State, to acquire compulsorily land in its area if it thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land. The Council must not, however, use this power unless it also thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objects:

- (a) the promotion or improvement of the economic well-being of the Council's area;
  - (b) the promotion or improvement of the social well-being of the Council's area;
  - (c) the promotion or improvement of the environmental well-being of the Council's area.
- (Section 226(1A) of the 1990 Act).

14.6 Officers consider that the appropriation of the land for planning purposes, with the consequence that this will engage Section 237 of the 1990 Act, will facilitate the carrying out of the development, redevelopment or improvement of the site. It will enable the development to be constructed pursuant to planning permission which notwithstanding it involves interference with third party rights which might otherwise impede the development.

14.7 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 not engaged as all the original dwellings have been demolished.

14.8 Other legal implications associated with the appropriation of the site to planning purposes and the effect of Section 237 of the Town and Country Planning Act 1990 are set out in full in Section 10 of this report.

14.9 Further legal implications are contained in the Part 2 report.

## **15 Human Rights Act 1998 Implications**

15.1 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.

15.2 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).

15.3 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.

15.4 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.

15.5 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 other affected persons and to balance this against the overall benefits to the community which the redevelopment of the site 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.

15.6 The Mayor should have regard to the matters referred to at paragraph 10.4 above. 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.

15.7 Crime and disorder implications

15.8 The design for any new homes will incorporate recommendations from the police via the Secured by Design principles.

## **16 Equalities implications**

16.1 An Equalities Analysis Assessment will be undertaken as part of the further work in order to assess the impacts of the proposals and this will be presented to Mayor and Cabinet for consideration in a future report should the scheme be agreed.

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

16.3 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.

16.4 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

16.5 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:

<http://www.equalityhumanrights.com/legaland-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

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

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

16.7 The essential guide provides an overview of the equality duty requirement including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the

duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## **17 Environmental implications**

17.1 There are no environmental implications arising directly from the recommendations set out in this report. The design stages will address environmental issues through the procurement of design partners and the planning process.

## **18 Background Documents and Report Originator**

18.1 Besson Street Re-development and Private Rented Sector Housing, approved by Mayor and Cabinet on the 9<sup>th</sup> December 2015.

<http://councilmeetings.lewisham.gov.uk/documents/s40265/Besson%20Street%20PRS%20Development%20Part%201.pdf>

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