

<b>MAYOR AND CABINET</b>			
<b>Title</b>	Besson Street: Selecting a Joint Venture Partner to Deliver New Build to Rent Homes		
<b>Key decision</b>	Yes	Item no	
<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	6 December 2017	

## **1 Reasons for Lateness and Urgency**

- 1.1 This report is late owing to delays in collating all the technical, commercial and legal information required, including from external advisors to properly conclude the partner selection process and to provide Mayor & Cabinet with the most up to date detail possible.
- 1.2 The report is urgent and cannot wait until the next meeting of the Mayor & Cabinet on January 10 2018 as this would cause significant delay to the commercial timetable and further push back the achievement of the stated social and financial benefits of the scheme.
- 1.3 Where a report is received less than 5 clear days before the date of the meeting at which the matter is being considered, then under the Local Government Act 1972 Section 100(b)(4) the Chair of the Committee can take the matter as a matter of urgency if he is satisfied that there are special circumstances requiring it to be treated as a matter of urgency. These special circumstances have to be specified in the minutes of the meeting.

## **2 Summary**

- 2.1 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.
- 2.2 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. The programme to deliver this commitment includes a range of innovative and community-led developments to provide the type and quality of homes that Lewisham needs, and a new landlord licensing scheme to drive up quality in the private rented sector (PRS).

- 2.3 Homes for Lewisham also committed to supporting the development of new models of private renting which offer a more stable, higher quality offer by professional landlords, potentially including the Council itself.
- 2.4 In December 2015 Mayor & Cabinet agreed that officers should explore options for achieving this goal, using vacant land at Besson Street in New Cross. The proposed approach was for the Council to intervene in the PRS by creating its own private landlord Joint Venture (JV), through a 50/50 JV partnership.
- 2.5 In principle this approach offered the opportunity to combine vacant land with long-term and “patient” institutional investment, where investment delivers a more steady return that is higher over the long-term as opposed to short term return where initial high returns do not last. The approach provides emerging high-quality models of bespoke PRS developments known as Build To Rent (BTR), and introduces a new form of tenure - “living rent” – aimed at low to median income-earning Lewisham residents who are priced out of home ownership but who don’t qualify for social housing.
- 2.6 In July 2016 a further report was considered by Mayor & Cabinet. This described the outcome of detailed technical, financial and legal review that officers carried out. This had found that the Joint Venture Model could reasonably be expected to achieve the required objectives, while managing risks to the Council as far as that is possible in a commercial environment. On that basis Mayor and Cabinet agreed that officers could commence the selection of a JV partner whilst continuing to further establish the detail of how the model might operate.
- 2.7 This report provides the outcome of this process, and recommends that the Council proceeds as intended, to create a JV to deliver the Besson Street site. It recommends a preferred bidder to be the 50/50 partner who will match the Council on an equal basis in terms of risk and return in delivering this project. It also sets out, if these recommendations are agreed, how the project will be carried out and governed.
- 2.8 If these recommendations are approved, the outcome will be that the Council enters the PRS through this JV, and in partnership with the preferred bidder. It is clear at this stage, after a period of detailed negotiation with potential partners, that this course of action offers the potential for the Council to make a very significant intervention into the local private rented sector, to drive up standards and security for renters, and to set a new precedent for the borough – and beyond – for what

renters may come to regard as normal in years to come.

2.9 This course of action will result in the Council creating what can reasonably be considered to be an ethical and socially-minded commercial landlord, a new entrant into the local market for the benefit of Lewisham residents, which will set new standards including:

- Offering tenants a residency period of at least 10 years, by providing a five year tenancy with an automatic right to renew;
- Tenants however, will have the flexibility to leave at a time of their choosing;
- Rent increases will be fixed at the time of sign-up, and linked to inflation, so that renters can know in advance what rent they will pay in the future;
- Renters will deal with their landlord direct. There will be no agents, and therefore no fees;
- Renters will benefit from a very high standard of housing management and additional services including:
  - 24/7 responsive repairs
  - Pet friendly options
  - The opportunity to customise their home;

2.10 The structure of the development itself, and the JV landlord that will bring it forward will also create additional social benefits for the Council. The nature of the structure incentives a patient and long term return, meaning that there is less pressure on the partnership to generate an up-front return. The Council is effectively investing rather than selling its land, and this again reduces the imperative to drive up-front receipts. The net effect of this arrangement, in the case of Besson Street, enables:

- A model where homes are rented rather than sold, and owned by the company that develops them, creating an inherent incentive to build high quality new homes and to maintain them effectively;
- The provision of 35% affordable housing to be delivered as the London Living Rent product aimed at low-to-median earning Lewisham households;
- Genuine tenure-blind development, with all homes built to the same standard, all renters having the same service offer regardless of tenure, full pepper-potting across the development and an equal distribution of living and full market rents across all unit sizes;
- A new and fully-fitted out GP surgery and health centre for New Cross. This is in keeping with the original ethos of the site, as a healthy living development;
- A stable, long term and inflation linked income to the Council, and
- A continuing 50% ownership of the site and the development;

2.11 This report is in two parts. This part one report reiterates the strategic case for this course of action, and summarises the likely outcomes for the Council should the recommendations be approved. It also sets out the series of next steps required to implement the project, and how this new entity will be governed, and overseen by the Council.

2.12 Part two of this report contains the details of the partner selection process, including the details of the preferred, and other bidders. It sets out the relevant technical, legal and financial information, which is commercially sensitive on the grounds that it pertains to another organisation, that Mayor and Cabinet will need to consider alongside the information in this report.

### **3 Recommendations**

It is recommended that the Mayor:

- 3.1 Notes the summary of the structural challenges within the private rented sector, and their implications for renters, contained in section 5;
- 3.2 Notes the strategic business case for the Council intervening in this sector, utilising a Joint Venture partnership, as set out at section 6;
- 3.3 Considers the information contained in part 2 of this report, and agrees the preferred bidder for the proposed Joint Venture to deliver the Besson Street development as recommended in that report;
- 3.4 Subject to recommendation 3.3, to note the housing, financial and wider social benefits that this approach with this proposed preferred bidder, are expected to deliver;
- 3.5 Approve the proposed Joint Venture reporting and oversight arrangements set out in section 12 of this report;
- 3.6 Authorises officers to carry out all necessary steps in order to implement the recommendations set out in both part 1 and part 2 of this report.

### **4 Policy Context**

- 4.1 The contents of this report are consistent with the Council's policy framework. It supports the achievements of the Sustainable Community Strategy policy objectives:
  - Ambitious and achieving: where people are inspired and supported to fulfil their potential.
  - Empowered and responsible: where people can be actively involved in their local area and contribute to tolerant, caring and supportive local communities.
  - Healthy, active and enjoyable: where people can actively participate in maintaining and improving their health and well-being, supported by high quality health and care services, leisure, culture and recreational activities.
- 4.2 The proposed recommendations are also in line with the Council policy priorities:

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

4.3 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

4.4 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

4.5 In response to this, the Council has started to deliver homes directly itself for the first time in a generation, and will start 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.

4.6 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.

4.7 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 (HRA) is limited. The Budget announcement of 22 November 2017 introduced the potential for some limited increased to HRA caps, but this will be subject to conditions, and the technical detail around these conditions is as yet are unknown.

- 4.8 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.
- 4.9 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

## **5 Background**

- 5.1 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.
- 5.2 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.
- 5.3 The average house price in London is now £617,651, a 7 per cent

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%.

- 5.4 In Lewisham the PRS has doubled in size in the past ten years and around 25 per cent of Lewisham's population now rents privately. Over half of residents who live in the PRS 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.
- 5.5 Most tenancies in the PRS are assured short hold 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.
- 5.6 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.
- 5.7 PRS rents are increasing much more quickly than incomes and many tenants pay more than half their net income in rent. As of March 2017 the median weekly rent for a two-bedroom property in Lewisham was around £350. This represents an increase of almost 40% on the median monthly rent for a two-bedroom property in 2010/11.
- 5.8 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.
- 5.9 All of the factors outlined above concerning housing supply and affordability have contributed to an increase in homelessness. In Lewisham there has been an 115 per cent increase in the number of households in temporary accommodation since 2010/11 – as at the end of October 2017 there are currently 1,984 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 almost 10,000. It is projected that during 2017/18, 1,147 properties will become available to let of which slightly over half will be suitable for households with children.

- 5.10 Between 2014/15 and 2016/17 in over 50 per cent of acceptances the main reason for homelessness was the end of a private rented sector assured short hold tenancy, and in the majority of these cases the AST was terminated by the landlord.
- 5.11 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 through a wide range of different approaches, as part of a wider strategy to ensure that sufficient new homes are developed, across all tenures, and that the supply of new homes meets the boroughs needs in particular for affordable housing.
- 5.12 However, despite the Council's previous interventions, the statistics above indicate that there is a serious issue with the PRS in relation to how tenants are treated, the security of tenure that is available to them and the effect of rapidly escalating rents. These factors are resulting in increased pressure on the support the Council can offer to families in housing need, and resulting in a negative impact on the lives of many families living within the PRS.
- 5.13 The proposed intervention set out in this report is to create a commercial landlord for one site of 250 homes. This will be a direct intervention into the market, albeit one that is clearly smaller in scale than the problem it seeks to address. Nonetheless the impact this intervention has could be significant, both for the Lewisham residents who benefit from the scheme once build, and more broadly in shaping the expectations for the wider market. Increasingly developers are proposing build-to-rent homes as part of large developments, and by developing directly, offering 10 year residencies and 35 per cent affordable housing, the Council can set the standard for the wider market.

## **6 Intervening in the Private Rented Sector**

- 6.1 In December 2015 the Mayor agreed that the most effective way for the Council to intervene in the PRS is to form a Joint Venture (JV) with a partner who has experience of delivering high-quality rented housing. This JV would then build bespoke new homes for renting – Build to Rent (BTR) homes – and would set a new standard for housing management and customer service in the PRS. This standard will be more in keeping with the levels of rents that private renters pay, and in so-doing would start to shape renting as a consumer product rather than an insecure tenure of last resort.
- 6.2 The JV partnership will be a commercial landlord, but one that works with an ethical approach. This include providing at least 35 per cent affordable housing in its development, and targeting these homes at lower income working households who do not qualify for social housing, but equally cannot access home ownership.

- 6.3 The principle behind this approach is that it recognises the strengths that the Council has and can bring to bear on the development, alongside an awareness of the gaps that would need to be filled.
- 6.4 In the Council's case its strengths include its role as a place maker and in providing political and community leadership while the private sector partner can bring expertise in the market, development, risk management and delivery. It also has the benefit of bringing in expertise and working with established providers, which will itself help to attract the institutional investment needed.
- 6.5 At present, the Council does not have the capacity to deliver a market-facing development of 230 homes, where the return on the total capital investment of more than £75m will arrive slowly over time from rents, and where the success of the scheme is hugely dependent on providing a high quality product and service. The risks associated with intervening to achieve these policy objectives, at that cost, are very high.
- 6.6 It was on that basis that in July 2016, Mayor and Cabinet agreed that the Joint Venture partnership was the appropriate model for this intervention and this project at Besson Street. In comparison to other more traditional approaches, such as either disposing of the land to a developer, or the Council directly developing the site, forming a JV appropriately balances the risks and rewards.
- 6.7 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.
- 6.8 This proposed approach keeps all other options open for the future. As later sections of this report, and part 2 of the report, make clear, the partnership that is recommended here is for Besson Street only. This means that the Council reserves all decision making about all future sites and how they should be developed. Nonetheless the proposed partnership has been selected in such a way that, if the Council chooses to use it to deliver further sites, then it can make that choice without a separate partner selection exercise. Although a full policy and value for money assessment would still need to be made, this approach creates flexibility for the Council in its future decision making.

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

- 7.1 The vacant site at Besson Street in New Cross is proposed to be the site of a first development for the developer/landlord Council JV outlined in the section above. Officers have been developing options for this project, in the manner set out below.

7.2 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 JV 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, 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

7.3 The agreed principle was that the site should be delivered through a JV partnership between the Council and an experienced private sector partner, in order to bring in expertise and share risk.

7.4 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.

7.5 The report was presented to Mayor and Cabinet in July 2016 where it was agreed that the procurement process to select an investment partner with whom the Council could form a Limited Liability Partnership to deliver the Besson Street scheme could commence.

7.6 A two stage, non-OJEU partner selection process was approved, and authority was delegated to the Executive Director of Resources and Regeneration to select a shortlist of three bidders at the end of the first stage. This second stage has now completed and the outcomes of it lead to the recommendations set out in both parts of this report.

## **8 The New Cross Gate Trust**

8.1 The Besson Street site is a 2.5 acre plot of land within the ‘Kender triangle’ in New Cross. The site is wholly owned by the Council and has been vacant since 2007

8.2 The site was previously assembled as part of the New Cross New Deal for Communities (NDC) with the NDC making two separate attempts to bring forward proposals to develop the site. Although planning permission was achieved for a development in March 2008, the plans were abandoned due to financial constraints resulting from the global financial

crash.

- 8.3 A significant part of the NDC's proposals for the site involved the construction of new community space and a new GP surgery that could be leased to the NDC for peppercorn rent, so that the NDC could lease it to a GP practice to ensure they had ongoing revenue.
- 8.4 When the New Deal for Communities programme was wrapped up in 2011 the New Cross Gate Trust (NXGT) was set up a successor organisation to carry on delivering on the NDC's objectives to sustainably regenerate the New Cross area.
- 8.5 To maintain the involvement of the NXGT in the Besson Street project, the Council has committed to deliver elements of the NDC's development proposal as part of the current Besson Street development plans.
- 8.6 Although there is no legal obligation upon the Council to deliver elements from the previous NDC healthy living scheme, officers believe that bringing forward some elements of this approach will provide significant benefit for the area, and fulfil a moral obligation to the local community.
- 8.7 The current 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.
- 8.8 These commitments have been incorporated into the Council's red lines that set out the parameters for the partner selection process which is explained in more detail.
- 8.9 This approach means that, with its partner, the Council will be delivering significant value for the New Cross community by providing a new, fully fitted out GP Surgery, community space for NXGT, an outdoor gym that will open for the wider community to use and an ongoing revenue stream to support the NXGT for the long term.
- 8.10 By delivering on these commitments the Council will be fulfilling the aims of the NDC, and ensuring the long term future of the NXGT, despite almost 10 years having elapsed since the previous schemes were abandoned.

## **9 The Partner Selection Process**

- 9.1 The partner selection process is set out in detail in part 2 of this report. It ran for 10 months from January to October 2017. Working down from an original 55 expressions of interest from potential partners, a final detailed stage of negotiation took place between June and October 2017.
- 9.2 The Mayor is recommended to consider the detailed information pertaining to the partner selection process set out in part 2 of this report,

and the recommendations in that regard.

## **10 Objectives and Operations of new JV Partnership**

10.1 The proposed new JV partnership will be created to be a commercial landlord that operates on ethical and socially-minded principles. It will take the emerging principles of the Build-to-Rent model in the UK, where institutional funders who prioritise a slow, steady investment return over a short-term development profit and also introduces elements of best practices from other more mature private rental markets in Germany and the United States.

10.2 This approach achieves positive outcomes across three areas: commercial benefits, place making benefits and, most importantly, the better standard of housing this approach creates. All of these benefits are highly interrelated, but it is useful to consider them separately.

### Commercial Benefits

10.3 Transferring public land into the JV Partnership, which will be 50% owned by the Council, will generate a significantly higher return over the long term than would be achieved through simply selling the land on the open market.

10.4 The approach allows the Council to benefit from the experience of a partner in both development and investment. The alignment of the partners' interests within the JV means that both parties are equally incentivised to make the scheme successful so that both partners mutually benefit from each other's experience.

10.5 Working in partnership also means that the risk the Council is exposed to is less risk than if it were to attempt the development on its own, the risk is mitigated through being shared equally with the JV partner.

10.6 The investment of the Besson Street site into the JV means that Council will have a long term investment in New Cross, and will benefit from any future growth that takes place there.

### Development and Place making Benefits

10.7 By using its land in this way, and seeking a return over the long term, the Council and its partner are incentivised to deliver a higher quality product designed to deliver and maintain value over time.

10.8 The partner has been selected partly on their track record of delivering high quality developments. The alignment of interests, desire for a long-lasting product and a highly skilled delivery team will all contribute to creating a development that provides a better long term place making benefit for the wider area New Cross area.

10.9 The scheme also directly provides new community assets, by providing a new fully fitted out GP surgery, new community space for the NXGT and

an outdoor gym that will be open to the community. Additionally the GP Surgery will be used to enable long term financial sustainability for the NXGT, enabling it to fulfil its objectives to sustainably regenerate the New Cross area into the long term.

A new standard for private renters

10.10 The Besson Street JV partnership will create a step change in the offer that is available to private renters, and extend that offer to the 35% of homes let on London Living Rents. Through the proposal that has been negotiated with the preferred partner, it is expected that the new JV partnership will:

- Offer all tenants a residency period of at least 10 years, by providing a five year tenancy with an automatic right to renew;
- Offer a range of other shorter tenancy lengths, of 1, 2 and 3 years, for tenants who choose to take this offer instead;
- Provide all tenants will have the flexibility to leave at a time of their choosing;
- Guarantee that rent increases will be fixed at the time of sign-up, and linked to inflation, so that renters can know in advance what rent they will pay in the future;
- Deliver 35% of new homes for London Living Rent, a type of affordable housing where the rent is linked to median incomes, not to the market, so that it will always be genuinely affordable.
- Create a tenure blind approach to housing where the affordable units are “pepper-potted” across the scheme, have exactly the same quality of fit-out and all services are equally provided to all tenants.
- Enable renters to deal with their landlord directly. There will be no agents, and therefore no fees;
- Deliver a very high standard of housing management and additional services including:
  - 24/7 responsive repairs
  - Pet friendly options
  - The opportunity to customise their home;

10.11 Providing these benefits will redefine what is possible to provide for tenants, and set a standard for what renters in the PRS can expect from their landlords. The approach builds on two international rental systems that operate differently to the UK market, and takes some of the better features of each.

10.12 The first comparator is the United States. Here the principle rental model is known as “multifamily housing”, designed to cater for a range of households incomes within a single purpose-built rented development. Key features include amenity spaces which are exclusive to the occupants of the building, and no distinction between homes for different incomes other than the rent that is paid for each. The US model of renting has been established for some time, and as a result BTR developments are an established asset class attracting institutional capital into the residential sector.

10.13 The proposed model at Besson Street takes these principles into its design. It will provide completely tenure-blind treatment of tenants, and the delivery of a social good through stable investment. However the extensive amenity offer which is often a point of differentiation between developments in the US, is not proposed here. Instead the amenity provision is proposed to be inclusive, and open to the wider community. This will be achieved principally by having a GP surgery as the development's main amenity space, which will invite the wider community into the new building.

10.14 The second comparator is Germany, which is commonly used in discourse in the UK as an exemplar rented market which treats renters very differently to the UK market. The IPPR studied the German rental market in their publication of 2017, "Lessons From Germany: Tenant Power In The Rental Market<sup>1</sup>".

10.15 This report looked found a number of positive features of the German model, and also some challenges. The most important point is that the German model is based on national legislation and a long history and culture of renting that follows from that. While the intervention that the Council might make at Besson Street has the potential to set new standards for the market, clearly the Council cannot change the legislative framework for supporting renters; this needs to be achieved by the national Government.

10.16 The main features of the German system include that it is a very large proportion of the population rents privately – 40% of the population, which is roughly double the UK position - and renters enjoy indefinite tenancies required by law. As a result renters have much greater security than is the case in the UK and, as rent increases are controlled by law, renters also have greater certainty around future costs. The report did find negative features that flow from this legislative framework, principally that it is more difficult to access renting in Germany and that the strict controls may encourage unofficial subletting, which is uncontrolled.

10.17 Given these findings the IPPR report made the following recommendations:

- Two year tenancies should become the minimum;
- Landlords should offer a range of longer tenancies;
- Local Authorities should develop their own Build to Rent products to set high standards;
- Rent increases should be clearly defined within tenancies.

10.18 The proposals set out in this report mean that, if agreed, the Besson Street project will achieve all of these recommendations, and will establish a model of private rented housing takes the best aspects of both the US and German rental models and delivers those within a UK context.

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<sup>1</sup> <https://www.ippr.org/publications/lessons-from-germany-tenant-power-in-the-rental-market>

## **11 Land Value and Transfer Process**

- 11.1 The tender documentation set out the process and timescales for transferring the land from the Council into the JV partnership, and the high level process and timescales for valuing the land. The proposed partner has agreed to this process and timescales and they will be incorporated into the Heads of Terms and detailed legal agreements for the JV.
- 11.2 Very simply, once the JV is formed, and following a design process, it will submit a planning application for the site. Upon satisfactory grant of planning consent, and following expiry of a Judicial Review period, if the JV decides to proceed with the development then land will transfer from the Council into the JV. The land value, and therefore part of the Council's equity contribution in the JV, is established at the point of transfer, although it is underpinned by a Minimum Land Value (MLV). The process for establishing land value, including the MLV, is set out below.
- 11.3 As part of the procurement, Bidders were asked to provide a valuation of the Council's land based upon the Assael Scheme worked up to date, and based upon the Council's red line requirements in respect of the provision of the GP Surgery, pharmacy and New Cross Gate Trust office and 35% Living Rent provision. The resultant valuation is the MLV and is the minimum amount that the JV will pay for the Council's land should it decide to proceed with the Scheme.
- 11.4 The "mechanism" and methodology for calculating that MLV has been agreed between the partners through the procurement process, and the same mechanism will be used to revalue the land post-planning to inform the Transfer Land Value (TLV). If the TLV exceeds the MLV, then this is the amount the JV pays the Council for its land. If not, then the land is transferred at the MLV.
- 11.5 The valuation methodology, robustness and reasonableness of the valuation assumptions proposed by the bidders have been tested throughout the procurement process by Officers and their consultant team, in particular GL Hearn who are advising the Council on valuation matters, and Arcadis who are advising on build costs.
- 11.6 The land valuation analysis and best consideration implications are set out in Part 2 of this report.

## **12 JV Governance, Reporting and Council Oversight**

- 12.1 The JV Agreement aspects of the above are summarised in Part 2, section 11.
- 12.2 The JV partnership that will be created to deliver the Besson Street scheme will be a 50/50 partnership between the Council and our preferred partner. As it will be a 50/50 partnership neither partner will have absolute

control, and decisions will be made together. All of the activities of the partnership will be defined by the JV agreement that is based on the Heads of Terms submitted as part of the partner selection process.

- 12.3 When the JV is created two Representatives from each partner will be appointed to an Operational Board which will be responsible for making the day to day operational decisions in line with the purpose and structure of the company. As set out in part 2 of this report, the proposed structure for the JV also involves a dormant holding company. The Representatives to the Operational Board are also proposed to be Directors to the dormant company.
- 12.4 To ensure that the Council has proper oversight and control over the Council appointed Representatives/Directors, the Council Representatives/Directors will report quarterly to an internal Council Oversight and Performance Board that will be chaired by the Council's Cabinet Member for Housing, on the performance and delivery of the JV.
- 12.5 In addition, the JV will also present an annual report for the previous year and the business plan for the coming year to both Housing Select Committee and to Mayor and Cabinet on annual basis for review. This approach mirrors the arrangements already in place for monitoring Lewisham Homes.
- 12.6 Day to day client management of the JV will be undertaken by the Housing Strategy and Programmes Team, who have experience with successfully clienting both Lewisham Homes and the Brockley PFI.
- 12.7 Officers believe that these governance and reporting arrangements will provide the Council with adequate oversight to ensure that the JV is delivering in line with the agreed principles and is realising the Council's vision for the Besson Street development.
- 12.8 Mayor & Cabinet is asked to approve this outline oversight arrangement and note that, in line with part 2 of this report, the final detail of the mandates for the Council's Representatives/Directors, the Indemnities required to support them, and the scheme of delegation for the development, will all be brought back for further decision making at Mayor & Cabinet.

### **13 Affordable Housing**

- 13.1 The proposals agreed by Mayor and Cabinet previously in relation to Besson Street 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;
- 13.2 The scheme has been taken forward using these principles. 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.

13.3 Since the initiation of the Besson Street project the new Mayor of London has launched new strategic planning guidance, a new draft Housing Strategy and a new funding regime. Through these the “Living Rent” concept originally conceived for Besson Street has become codified into London-wide policy as the “London Living Rent”. The GLA has established a rent setting policy in relation to the product, and enabled Local Authorities to consider it to be a form of an intermediate form of affordable housing.

13.4 Given this development, it is now possible to set out the rent levels that the Living Rent units will be let at. These are set out in the table below, alongside the number of homes currently expected to be delivered in each unit size. The table also sets out how the rent level compares to the LHA rent caps that apply to renters claiming housing benefit in the PRS, and the rent levels that would apply for sharers, and the equivalent cap that applies to under 35s claiming benefits in the PRS:

Unit size	London Living Rent (per month)	LHA Rent Cap	Sharing Rate	Sharing Cap	Unit Numbers
1 bed	£936	£884	N/A	£412	21
2 bed	£1,040	£1,150	£520	£412	44
3 bed	£1,144	£1,433	£381	£412	12

13.5 The indicative Assel scheme design for the Besson Street development also includes 4 3-bed mews houses, but these are expected not to be included in the final design.

13.6 London Living Rent is a product aimed at low to median earning working households who are priced out of home ownership and yet have no realistic opportunity to qualify for social housing. As such the LHA cap and the sharing rate are not directly relevant. Nonetheless these benchmarks show how the product can function as a genuinely affordable option for private renters.

13.7 As has been made clear in numerous reports to Mayor & Cabinet in recent years, one of the primary drivers of homelessness in Lewisham – and London more broadly – is that private renters are unable to sustain their assured short hold tenancies. This is in turn driven by rising private sector rents set against the LHA cap. There are very few properties available in Lewisham at any one time for private renters who claim housing benefit where the rent is lower than the LHA cap. As a result the Council uses a range of measures, including rent guarantees and other incentives, to enable renters claiming benefits to stay in a PRS tenancy rather than

become homeless. The table shows that the rents for the 2 beds and the 3 beds set by London Living Rent product are below the LHA cap and could therefore very reasonably be considered to be an affordable PRS product.

13.8 Furthermore the caps on single under 35's are more severe still. This client group receives benefits equivalent to the rent it would pay if it shared a home, at £95 per week. The Besson Street development will create purpose built three bed rented homes, with equal sized en-suite bedrooms designed to enable sharing. The table shows that these units could be shared by three single people claiming the single room rate of housing benefit, and still be affordable to them.

13.9 The London Living Rent product is not social housing, and the Council is separately bringing forward a programme of Council house building to help to meet that need. However these homes, set at the rents above, offer a range of ways of meeting a genuine housing need in Lewisham. They will enable lower income workers to benefit from lower rents and greater security, and will be priced at a level that means the group of potential beneficiaries is very broad.

13.10 These new 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.

## 14 Next Steps

14.1 If the recommendations in this report are agreed then the following indicative timetable sets out the next steps up until the completion of the scheme:

Date	Milestone
January 2018	JV Consultant Team appointed
January 2018 – September 2018	Main Design Phase
March 2018	JV Agreement Finalised
September 2018	Planning Submission
February 2019	Planning Consent Granted
February 2019 – July 2019	Detailed Design
July 2019 – November 2019	Procurement of Contractor
Q4 2019	Start on Site
Q4 2019 – Q4 2021	Construction
Q4 2021	Completion

## **15 Financial Implications**

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

## **16 Legal Implications**

16.1 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.

16.2 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.

16.3 The Council has been properly advised on all aspects of best consideration and State Aid in relation to the proposed transfer of the Council's land into the JV vehicle. In terms of best consideration it accepted that the disposal will be at a consideration less than best consideration and accordingly the Council will be seeking the consent of the Secretary of State to the disposal. In terms of State Aid the Council appointed GL Hearn to provide expert valuations at the outset of the JV partner tender process and is satisfied that the proposed disposal does not present any State Aid issues.

16.4 Further legal implications including further details of some of the points set out in paragraph 14 of this report are contained in the Part 2 report.

## **17 Crime and disorder implications**

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

## **18 Equalities implications**

18.1 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.

18.2 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.

18.3 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.

18.4 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.

18.5 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/>

18.6 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

18.7 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/>

## **19 Environmental implications**

19.1 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.

## **20 Background Documents and Report Originator**

20.1 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>

20.2 Besson Street Re-development and Private Rented Sector Housing, approved by Mayor and Cabinet on 13<sup>th</sup> July 2016:

<http://councilmeetings.lewisham.gov.uk/documents/s44566/Besson%20Street%20Re-development.pdf>

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