



Mayor and Cabinet

Reginald Road Land Assembly

Date: 14 September 2021

Key decision: Yes

Class: Part 1

Ward(s) affected: New Cross

Contributors: Executive Director for Housing, Regeneration and Public Realm, Executive Director of Corporate Resources and Director of Law, Corporate Governance and Elections.

Outline and recommendations

Approve the serving of Notices of Seeking Possession and taking possession proceedings, where necessary, in respect of tenants in 2 -30A Reginald Road – noting the previous approval;

Approve the serving of Initial Demolition Notices on all remaining secure tenants within 2 – 30A Reginald Road in order to suspend the requirement for the Council to complete right to buy applications for as long as the Notices remain in force – noting the previous approval;

Approve the serving of Final Demolition Notices on all remaining secure tenants within 2 – 30A Reginald Road once the proposed demolition date is known, in order to render all existing right to buy applications ineffective and prevent any further right to buy applications being made – noting the previous approval;

Approve the required increase in the budget required to achieve vacant possession of 2-30A Reginald Road as set out in the accompanying Part 2 report;

Approve the remaining drawdown of the previously agreed Right to Buy contribution as set out in the accompanying Part 2 report;

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Timeline of engagement and decision-making

Mayor And Cabinet, 15 July 2009 – The future of Deptford Town Centre Regeneration Programme and update on financial arrangements and commercial approach

Mayor And Cabinet, 11 April 2012 – Deptford Town Centre Regeneration Programme – Delivery of the Southern site housing component of the regeneration programme.

Mayor and Cabinet, 11 July 2012 – Deptford Town Centre Regeneration programme

Mayor and Cabinet, 1 May 2013 – Deptford Town Centre Regeneration Programme Southern Housing Sites update.

Mayor and Cabinet, 11 September 2013 – Deptford Southern Housing Sites S105 consultation outcome.

Mayor and Cabinet, 25 March 2015 - Deptford Southern Housing Sites Regeneration Project update and Decant

Mayor and Cabinet, 15 July 2015 - Deptford Southern Housing Sites Regeneration Programme Appropriation of land report

Mayor and Cabinet, 28 June 2017- Deptford Southern Housing Sites update and changes to affordable housing numbers and grant funding

Mayor and Cabinet, 15 March 2018 - Deptford Southern Housing Sites update on Tidemill - increase in affordable housing levels and revised budget

Mayor and Cabinet, 27 June 2018 - Deptford Southern Housing -Tidemill update

1. Summary

- 1.1. The building comprising 2 – 30A Reginald Road is part of what is known as the Deptford Southern Housing site which is a multi phased regeneration scheme delivering new housing as well as improved public realm and community facilities. Delivery of the scheme commenced in 2006.
- 1.2. The completed phases of the scheme have seen the delivery of the extension to the Wavelengths leisure centre extension, Frankham Street parking boulevard, the Tidemill/Deptford Lounge community and library development and the relocation of Deptford Green School.
- 1.3. The remaining phases of the Deptford Southern Housing sites scheme consists of two development sites. These are:
 - Amersham Vale – the former site of the Deptford Green school – now reprovided in new premises.
 - Tidemill – a site between Reginald Road and Frankham Street including the old Tidemill School and playspace for the school – also now reprovided in new premises.

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- 1.4. Working in partnership with Peabody on both sites and Sherrygreen Homes on the Amersham Vale site, the housing element of the programme will deliver 329 new homes of which 141 will be genuinely affordable homes for social rent at LAR levels. This is an uplift of 128 social homes from what was originally approved at planning. Additionally 56 will be shared ownership homes for residents on lower incomes.
- 1.5. The Amersham Vale site is now nearing completion with the homes expected to be ready for occupation in the autumn. The transfer of the freehold to Peabody was completed on 25 August 2021.
- 1.6. Following significant delays due to a revised planning application, a Judicial Review and issues relating to obtaining vacant possession, Tidemill phases 1 and 2 are now in construction. Phase 3 of the Tidemill site is 2 -30A Reginald Road, a Council freehold building of 16 residential properties.
- 1.7. Officers have been working with the original residents of 2 -30A Reginald Road to offer them alternative homes in line with the commitments made to them at the outset of the scheme. All of the original secure tenants are being offered new homes on either the Amersham Vale site or the Tidemill phase 1 and 2 sites, or they can choose to move to another property of their choice through Lewisham Find Your Home, the Council's choice based lettings scheme. These residents also receive compensation in the form of a 'homeloss' payment. Leaseholders also get the option to reinvest into a shared equity home on either the Amersham Vale or Tidemill sites as set out in the leasehold offer . If this is not a financially viable option then Peabody can seek to offer a tenancy.
- 1.8. Whilst officers will work with all of the original residents to offer them a new home, the Council needs to protect its position to ensure that vacant possession of the building is obtained when required in order to build the new homes.
- 1.9. This report provides an update on the scheme progress and recommends that the measures required to achieve vacant possession of the building at 2 -30A Reginald Road, as set out in the report, are approved.
- 1.10. This Part 1 report provides the background to the schemes, progress to date and the measures required to obtain vacant possession of the building. The accompanying Part 2 report provides commercially sensitive information in relation to the budgets required.

2. Recommendations

It is recommended that Mayor and Cabinet:

- 2.1. Approve the serving of Notices of Seeking Possession and taking possession proceedings, where necessary, in respect of tenants in 2 -30A Reginald Road – noting the previous approval;
- 2.2. Approve the serving of Initial Demolition Notices on all remaining secure tenants within 2 – 30A Reginald Road in order to suspend the requirement for the Council to complete right to buy applications for as long as the Notices remain in force – noting the previous approval;
- 2.3. Approve the serving of Final Demolition Notices on all remaining secure tenants within 2 – 30A Reginald Road once the proposed demolition date is known, in order to render all existing right to buy applications ineffective and prevent any further right to buy applications being made– noting the previous approval;
- 2.4. Approve the required increase in the budget required to achieve vacant possession of 2-30A Reginald Road as set out in the accompanying Part 2 report;
- 2.5. Approve the remaining drawdown of the previously agreed Right to Buy contribution as set out in the accompanying Part 2 report;

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3. Policy Context

Housing

- 3.1. The Council's Corporate Strategy (2018-2022) outlines the Council's vision to deliver for residents over the next four years. Building on Lewisham's historic values of fairness, equality and putting our community at the heart of everything we do, the Council will create deliverable policies underpinned by a desire to promote vibrant communities, champion local diversity and promote social, economic and environmental sustainability. Delivering this strategy includes the following priority outcomes that relate to the provision of new affordable homes:
- Tackling the Housing Crisis – Providing a decent and secure home for everyone.
 - Building an Inclusive local economy – Ensuring every resident can access high-quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
 - Building Safer Communities – Ensuring every resident feels safe and secure living here as we work together towards a borough free from fear of crime.
- 3.1. Lewisham's Housing Strategy (2020-2026), includes the following themes that relate to the provision of new affordable homes:
1. delivering the homes that Lewisham needs.
 2. preventing homelessness and meeting housing need.
 3. improving the quality, standard and safety of housing.
 4. supporting our residents to live safe, independent and active lives.
 5. strengthening communities and embracing diversity.

4. Background

- 4.1. In May 2006 officers commenced initial design and feasibility work with respect to the Council's intent and aspirations for regeneration for a number of sites in Deptford. A final report was published in March 2007 jointly by Lewisham Council and PTE architects called "Tidemill School, The Lewisham Lounge and Giffin Street Regeneration Area".
- 4.2. In the summer of 2007 officers subsequently prepared a Business Case to demonstrate the commercial and financial viability of the proposed regeneration programme and to identify the commercial approach to its development. A key element of the Business Case was the delivery of a baseline housing scheme of 251 new homes of mixed tenure and split (by habitable room) approximately 65% private and 35% social and affordable. It was agreed this was to be delivered in phases four to six in a six phase scheme, the first three phases of which have now been completed (Wavelengths extension, Frankham Street parking boulevard and Deptford Lounge/Tidemill development).
- 4.3. The Business Case also referred to the other projects on-going in Deptford town centre, including the delivery of a new station in partnership with Network Rail. The Business Case assumption that the earlier phases of the programme could be funded by the Council on the basis of projected receipts from future housing projects within the programme has underpinned the approach to programme development and to the scope of the Deptford Southern Housing Sites project.

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- 4.4. Following consultation with residents and stakeholders, officers agreed to review plans and investigate if the existing housing blocks at Reginald Road and Giffin Street could be brought into the scope of the regeneration programme. This work commenced in summer 2008 but was mainly suspended until summer 2011 due to the recession, changes to funding and prioritising other elements of the wider Deptford regeneration programme.
- 4.5. From Summer 2011, officers worked with PTE Architects to revise the 2007 feasibility report and produce a revised design proposal for the Deptford southern housing sites which included the demolition and replacement of the existing Giffin Street and Reginald Road blocks as part of the proposals.
- 4.6. A housing needs assessment was carried out with residents in both the Giffin Street and Reginald Road blocks in June 2012. This showed that there are various re-housing issues including overcrowding and accessible homes requirements.
- 4.7. On 1 May 2013 a report was agreed by Mayor & Cabinet that altered the scheme proposals to a hybrid option of previous schemes, which included the demolition of 2-30A Reginald Road and left the Giffin Street blocks in situ. Agreement to this revised scheme was on the basis that the results of a further Section 105 consultation and an Equalities Analysis Assessment would be reported back to the Mayor & Cabinet prior to commencement of the dialogue stage of the procurement exercise. This was reported to and approved by Mayor & Cabinet on 11 September 2013.
- 4.8. On 12 February 2014 Mayor and Cabinet agreed to the selection of a consortium of Family Mosaic (now Peabody), Sherrygreen Homes and Mulalley as the preferred development partner for the two sites, at the former Tidemill School and on the site of the former Deptford Green School. The key terms of the winning bid included:
 - A capital receipt for both sites combined, to be received in stages as the development progressed, in addition to a contribution to cover the costs the Council will incur in securing vacant possession of the site;
 - The provision of 329 new homes in total of which 117 (36%) were to be affordable housing made up of 77 affordable rent (23%) and 40 shared equity/ownership (13%);
 - This bid was selected because it offered the greatest level of affordable housing. Other bids offered a greater capital receipt but lower levels of affordable homes;
 - In line with Family Mosaic's wider approach and corporate strategy, the affordable rented homes on the development would have rents set at social rent levels, and not at 80% of the market; and
 - The preferred bidder offered a good package of support for existing tenants and leaseholders in 2 – 30A Reginald Road who would be able to move into the new development on similar terms, with rents protected for tenants and with a good shared equity offer for leaseholders.
- 4.9. In March 2015, officers presented a report to Mayor and Cabinet making recommendations to prepare for vacant possession of the site, pending a successful planning application. The report set out a number of measures required to assemble the land including serving demolition notices to suspend further Right to Buy applications, taking possession action where required, agreeing to compensate residents and commence the process of buying back the 3 leasehold properties.
- 4.10. In July 2015, Mayor and Cabinet agreed that Council owned land within the scheme should be appropriated for planning purposes in order to enable the powers in Section 237 of the Town and Country Planning Act (T&CPA) 1990 to be used to ensure that any restrictive covenants or other rights affecting the land can be overridden in the

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interests of the proper planning of the area, thereby allowing the redevelopment of the land to proceed.

- 4.11. On 17 September 2015 the Development Agreement was entered into with Family Mosaic Home Ownership Limited (now Peabody) and Sherrygreen Limited conditional upon:
 - Satisfactory planning permission being issued for both sites;
 - The Council having appropriated the sites for planning purposes and the decision being free from challenge; and
 - The necessary disposal consent having been obtained by the Council.
- 4.12. On the 29 September 2016 the Strategic Planning committee considered applications for both sites in the project separately. The application for 120 new homes of which 33% were to be affordable on the Amersham Vale site was approved. The application for the Tidemill site was deferred to allow the applicant to further consider aspects of the proposal; the impacts of the daylight/sunlight; to confirm the offer to residents of 2-30a Reginald Road and the rationale for demolition; to clarify the affordable housing offer on the development; and to further consider the open spaces and how they might be available for community use.
- 4.13. On the 28 June 2017 a report was agreed by Mayor and Cabinet which agreed an increase in affordable housing on the Tidemill site from 37% to 47% by altering the tenure of 21 of the allocated private sale units to London Affordable Rent.
- 4.14. On 30 June 2017, Family Mosaic and Peabody Trust merged to become Peabody Group.
- 4.15. The Planning committee considered the Tidemill application again on 27 September 2017 and the application was approved. The approved plans include 74 social rented and 25 shared ownership homes.
- 4.16. The Council continued to work with Peabody and the GLA to maximise the amount of affordable housing on the Tidemill site and negotiated to further increase the amount of new affordable homes to 117 social rented and 41 shared ownership. This was reported to Mayor and Cabinet in March 2018.
- 4.17. Works to the new housing on the Amersham Vale site commenced in June 2018. The site will provide 24 new social rent homes, 15 shared ownership homes and 81 private sale homes. A new park, Charlottenburg Park, has also been delivered as part of the scheme. The majority of the park was delivered in September 2016, with the remainder to be delivered on completion of the new homes.
- 4.18. The new homes on the Amersham Vale site will be ready for occupation this autumn with residents of 2 – 30A Reginald Road having first refusal of the social rented homes on a protected rent or a shared equity home.
- 4.19. Part of the Tidemill site was being used as meanwhile space whilst the housing plans came forward and actual construction could begin. In August 2018, the Council served notice on the meanwhile occupants as they had refused to return the space when requested. Possession action had to be taken and the Council and Peabody had to defend a Judicial Review claim. This was concluded in October 2018 when the claim was dismissed.
- 4.20. As well as having an impact on the delivery time, the delays due to the deferred planning application and delay in gaining vacant possession of the site have had an impact on the scheme viability.
- 4.21. Additionally, officers deferred serving demolition notices and commencing possession until there was more certainty on the Tidemill scheme proceeding. Residents who had

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chosen to move still received the compensation due and the offer to buyback leaseholders remained as any vacated property would be used as temporary accommodation.

- 4.22. Given the length of time since the initial decision to serve the demolition notices and commence possession action (where necessary) which was not implemented, officers are now seeking a renewal of those decisions.
- 4.23. Building work finally commenced on the Tidemill site phases 1 and 2 in October 2020 and the new homes are expected to be complete in early 2023. Again, original residents of 2 – 30A Reginald Road will have first refusal of these new homes on a protected rent.
- 4.24. The Tidemill phase 3 site is the 16 properties at 2 – 30A Reginald Road and surrounding area as outlined in Appendix 1. Developing phase 3 requires the decant of residents. Phase 3 will deliver 38 new social rented homes and 27 shared ownership homes. Officers have been working with residents and an update is provided in Section 5.
- 4.25. In total, the combined sites at Amersham Vale and Tidemill will deliver 329 new homes of which 197 will be affordable (60%).

5. Decant offer and update

- 5.1. When the decision was taken in May 2013 to include the 16 properties at 2 – 30A Reginald Road, there were 13 secure tenants and 3 leaseholders.
- 5.2. The offer to secure tenants is that they are given the option to move into a new property on the Amersham Vale site, a new property on the Tidemill site or a property of their choice through 'Lewisham Find Your Home' – the Council's choice based lettings scheme. Secure tenants have been guaranteed a 'like for like' offer so that they are not required to downsize even if they are now underoccupying. Additionally, the rents in the new build property are protected social rents for decanting secure tenants, meaning that they will pay the same rent on a like for like basis as if they were to remain in the Reginald Road property.
- 5.3. All secure tenants receive financial compensation in the form of a Homeloss Payment, which is currently £6,500. Additionally, the Council will pay for reasonable disbursement costs such as removals, disconnections/connections, postal redirection and contribute towards carpet/curtain replacement.
- 5.4. The offer to leaseholders is that the Council will purchase their property at full market value (value assessed independently), will pay compensation in the form of a Homeloss Payment (7.5% of the value for non-resident leaseholders and 10% for resident leaseholders). The Council also meets all reasonable costs such as solicitors fees, surveyors fees, removals, Stamp Duty Land Tax (SDLT), disconnections/connections and postal redirection.
- 5.5. Resident leaseholders also have the option to invest in a new build property on either the Amersham Vale or Tidemill site on a shared equity basis. This is where they would invest the equity that they have in their current home and if it is not sufficient to purchase a new property in full, then they will own a % (minimum 25%) and not be required to pay rent on the remaining amount. If a resident leaseholder does not have sufficient equity, as independently assessed, the Council will seek to offer a tenancy.
- 5.6. In March 2015, it was agreed that officers would start the process of assembling the land – meaning putting into place various measures to gain vacant possession of the 16 properties. This included the serving of Notice of Seeking Possession and taking possession action (where necessary) on secure tenants, and also the serving of Demolition Notices to prevent any further sales under the Right to Buy scheme.

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- 5.7. As stated in 5.2 all secure tenants will receive an offer of a new home, however, the Council needs to protect its position of ensuring that vacant possession is secured to allow for the 65 new homes to be built on phase 3 of the site. This may require taking possession action. The first step is to serve a Notice of Seeking Possession and then to seek a Possession Order from the County Court. It will only be necessary to take full possession action should a resident refuse all other options presented by Officers. Should it be necessary for full possession action to be taken, the Council will make a property available that meets the residents known needs.
- 5.8. Initial Demolition Notices suspend any current Right to Buy (RtB) applications. Final Demolition Notices are served when the actual demolition date is known and renders all existing RtB applications ineffective and prevents further applications.
- 5.9. The Mayor and Cabinet report of 25 March 2015 sets out the previous recommendations.
- 5.10. Although Mayor and Cabinet have previously approved the recommendations 2.1, 2.2 and 2.3, officers did not proceed at the time as there have been delays to the scheme as set out in this report. Given that the previous approval was in 2015 and there is now certainty on the scheme timetable, officers are seeking an updated approval. It should be noted that since the last approval there has been an increase in the timeframe between the service of Initial Demolition Notices and the proposed demolition from 5 years to 7 years.
- 5.11. Since 2015, officers have been working with secure tenants and leaseholders to assist them if they wish to move in advance of the Council requiring vacant possession. Secure tenants have been given a high rehousing priority for if they wish to move through Lewisham Find Your Home and have also been entitled to the compensation package. Leaseholders have been offered the same terms as if a Compulsory Purchase Order were in place.
- 5.12. Properties that are vacated by secure tenants or leaseholders are used as temporary accommodation until such time that full vacant possession is required. Subject to entitlement, temporary residents will be made an offer of alternative accommodation.
- 5.13. Five of the original thirteen secure tenants have already moved to homes through Lewisham Find Your Home and one is currently under offer. Three have been allocated new homes in the Amersham Vale site and are expecting to move this autumn. Officers have been visiting remaining secure tenants to discuss their preferences.
- 5.14. In regards to the three leaseholders, the Council has already completed the purchase of a non-resident leaseholder property and one of the resident leaseholders has accepted the offer of purchasing a home through the shared equity offer at Amersham Vale. Officers have attempted to visit the remaining leaseholder a number of times and will continue to try and engage to complete the purchase by agreement.

6. Achieving vacant possession

- 6.1. As outlined in Section 5, all remaining secure tenants and resident leaseholders have a number of options available to them.
- 6.2. The majority of the residents are engaging with officers and have either already moved or have accepted an offer of a new home.
- 6.3. Officers will continue to engage with all remaining residents and work with them on their options. However, the Council does need to protect its position to ensure that vacant possession of the whole building can be achieved when necessary. It is currently forecast that this will be early 2023 to tie in with the completion of the new homes in Phases 1 & 2.
- 6.4. In relation to secure tenants, this will mean serving a Notice of Seeking Possession and

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then seeking a Possession Order through the County Court.

- 6.5. In relation to leaseholders, this will mean seeking a Compulsory Purchase Order (CPO). Officers are preparing the case for a CPO and will be reporting back to Mayor & Cabinet shortly.
- 6.6. As outlined in this report, there is a significant cost to assembling the land with the compensation to secure tenants and the cost of purchasing leasehold properties and the associated compensation. The accompanying Part 2 report sets out the financial position of scheme and the requirement for an additional budget to ensure vacant possession.

7. Resident consultation and engagement

- 7.1. There has been several stages of consultation and information given to residents and local stakeholders throughout the life of the scheme so far including public exhibitions, drop in sessions and Section 105 consultation in 2008 and then again in 2012. In May 2013, the Council again carried out formal Section 105 consultation with tenants to seek their views on the current scheme.
- 7.2. Since planning was achieved, Officers alongside Peabody have continued to engage with the Frankham Street Landscape Group through a series of workshops with BDP, the landscape architects, to develop the landscape and public realm design for the scheme. The final engagement report was submitted to planning in November 2019.
- 7.3. Ongoing dialogue and detailed housing needs assessments have taken place for the majority of secure tenants and leaseholders at 2-30A Reginald Road. This has included a number of drop in sessions at the Deptford Lounge, evening and weekend door knocking and individual home visits. Officers will continue to engage with residents throughout the decant process to ensure that they are rehoused to properties of their choice as detailed in 5.2 of this report.
- 7.4. The developer's approach to consultation and communications during the selection process was very strong and they agreed a full strategy with the Council to engage with residents and stakeholders across both sites throughout the Planning process and delivery stages. The strategy sets out a range of communication tools including regular newsletters, drop in sessions and a website.

8. Financial implications

- 8.1. Financial implications are contained in part 2 of this report.

9. Legal implications

- 9.1. The Council has power under the Housing Act 1985 to acquire land for the provision of housing accommodation. This power is available even where the land is acquired for onward sale to another person who intends to develop it for housing purposes. The 1985 Act also empowers local authorities to acquire land compulsorily (subject to authorisation from the Secretary of State) but only where this is in order to achieve a qualitative or quantitative housing gain.
- 9.2. Section 84 of the 1985 Act provides that the Court shall not make a possession order of a property let on a secure tenancy other than on one of the grounds set out in Schedule 2 to the Act, the relevant ground in this case being ground 10.
- 9.3. Ground 10 applies where the local authority intends to demolish the dwelling house or to carry out work on the land and cannot reasonably do so without obtaining possession. The demolition works must be carried out within a reasonable time of obtaining possession.

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- 9.4 Where the Council obtains possession against a secure tenant it is required to provide suitable alternative accommodation to the tenant. This is defined in the 1985 Act and requires consideration of the nature of the accommodation, distance from the tenants' family's places of work and schools, distance from other dependant members of the family, the needs of the tenant and family and the terms on which the accommodation is available.
- 9.5 There is a more limited statutory re-housing liability for leaseholders whose properties are re-acquired by the Council under CPO or shadow of CPO powers. The duty imposed by Section 39 of the Land Compensation Act 1973 is to secure that any person displaced from residential accommodation is provided with suitable alternative accommodation where this is not otherwise available on reasonable terms. In order to facilitate early possession of properties which have been sold under the Right to Buy, Peabody has a range of flexible options for resident leaseholders who wish to invest in a new home in the development.
- 9.6 In accordance with the Land Compensation Act. secure tenants will be entitled to home loss and disturbance payments. Leaseholders will be entitled to receive market value for their properties as well as home loss and disturbance payments where appropriate in accordance with the Land Compensation Act 1973. In both cases, the Land Compensation Act 1973 provides for these payments to be made whether or not the secure tenant or leaseholder (as the case may be) gives possession by agreement rather than requiring a possession order or CPO to be obtained.
- 9.7 The Housing Act 1985 (as amended) provides a statutory procedure for the service of Initial and Final Demolition Notices by authorities. Broadly, the effect of the service of Initial Demolition Notices on secure tenants is to suspend the requirement for the Council to complete right to buy applications for as long as the notice remains in force. The Initial Demolition Notice is required to contain certain prescribed information including a statement that the landlord intends to demolish the property, the reasons for this and the period within which the demolition will take place, which must be a reasonable period expiring not more than 7 years after the date of service of the Notice on the tenant. The Notice does not prevent tenants from making right to buy applications. However, the effect of the notice is that the Council is not required to complete any right to buy applications within the period specified in the Notice. In the event that the Notice expires before the demolition has taken place, the consent of the Secretary of State would be required to serve a further Initial Demolition Notice. Tenants with existing right to buy claims at the time the Initial Demolition Notices are served are entitled to claim compensation for legal and other fees, costs and expenses (e.g. survey fees) incurred prior to the Initial Demolition Notices coming into force.
- 9.8 Once the proposed demolition date is actually known, the Council can then serve a Final Demolition Notice which renders all existing right to buy applications ineffective and prevents any further right to buy applications being made. Again, compensation will be payable to Tenants with existing right to buy claims at the time the Final Demolition Notices are served.
- 9.9 The Human Rights Act 1998 effectively incorporates the European Convention on Human Rights into UK law and requires all public authorities to have regard to Convention Rights. In making decisions Members therefore need to have regard to the Convention.
- 9.10 The rights that are of particular significance to Members' decision in this matter are those contained in Articles 8 (right to home life) and Article 1 of Protocol 1 (peaceful enjoyment of possessions).

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- 9.11 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.
- 9.12 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.
- 9.13 Therefore, in reaching this decision, members need to consider the extent to which the decision may impact upon the Human Rights of residents and to balance this against the overall benefits to the community which the redevelopment will bring. Members 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.
- 9.14 It is relevant to the consideration of this issue, that all displaced secure tenants would be offered re-housing as set out in this report. Resident leaseholders will be offered a range of flexible options to acquire a new home in the new development. The Council retains the discretion to enable resident leaseholders who cannot afford to purchase a new home to rent a home on an assured tenancy in order to prevent homelessness. Secure tenants will be entitled to home loss and disturbance payments. Leaseholders will be entitled to receive market value for their properties as well as home loss and disturbance payments where appropriate in accordance with the Land Compensation Act 1973.
- 9.15 In taking these decisions, the Council's public sector equality duty must be taken into account. It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. 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; and foster good relations between people who share a protected characteristic and those who do not.
- 9.16 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for members, bearing in mind the issues of relevance and proportionality. Members must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 9.17 The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance. The Council must have regard to the statutory code in so far as it relates to the duty. The Technical Guidance also

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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 on the EHRC website.

10. Equalities implications

- 10.1. Mayor and Cabinet approved the Equalities Impact Assessment at the outset of the scheme. Officers have since taken the new Equalities Analysis Assessment (EAA) additional categories into account in considering the impact of the regeneration scheme. There are equalities implications in the decanting and rebuilding process and there will also be benefits in the completed scheme.
- 10.2. The decanting process provides a very individual service, where decant officers visit tenants at home and get to know them and their needs on an individual basis, so that any special requirements can be taken into account such as language, mobility or support needs. It is recognised that decanting is a very stressful time and decant officers will offer as much support as required to minimise the anxiety to residents.
- 10.3. It should be noted that the Council is committed to ensuring our developments will be inclusive and feature accessible and adaptable homes that will meet the needs of our residents throughout their life.

11. Climate change and environmental implications

- 11.1. Existing planning consents are and will be in line with the high standards expected by Lewisham Council and the GLA. Developments will meet or exceed guidance including seeking to reduce energy consumption, emissions, and climate change.
- 11.2. Every effort will be made to enhance the natural environment. This will include undertaking demolition and construction works in line with environmental protection and public health guidelines and seek to limit the impact on neighbours.

12. Crime and disorder implications

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

13. Health and wellbeing implications

- 13.1. There are no direct health and wellbeing implications arising from this report although the provision of new social homes will have a positive impact on health and wellbeing of people on the housing register waiting for permanent accommodation.

14. Social Value implications

- 14.1. As part of the development, the Council seeks to deliver wider benefits to local residents and businesses by setting targets on employment and training opportunities for Lewisham residents as well as using Lewisham businesses.
- 14.2. Peabody and Mulalley (the main contractor) produced a Local Labour and Business

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Strategy in August 2020 setting out their commitments to deliver on the social value aspects of the scheme. This is monitored by officers throughout the build period to maximise the opportunity for Lewisham residents and businesses.

15. Background papers

- 15.1. More information on the previous Mayor and Cabinet reports are available on the Council's website at <https://councilmeetings.lewisham.gov.uk/>

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