

Cabinet 14 January 2019

Report title: Somerleyton Road Phase 2 Delivery Strategy and Community Stewardship

Wards: Coldharbour

Portfolio: Cabinet Member for Planning, Investment & New Homes: Councillor Matthew Bennett

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Report summary

The Somerleyton Road project is a major opportunity to bring new homes, cultural and community facilities to central Brixton and to do so in close partnership with the local community. In 2013, following a long period of consultation and community coproduction Lambeth's cabinet endorsed proposals for a major development on the western side of Somerleyton road. Since then significant work has taken place on viability, design and on developing a feasible delivery strategy to realise the community's vision for central Brixton.

The first two elements of the Somerleyton Road project, to provide creative workspace at Carlton Mansions and to build a new home for the Ovalhouse theatre, are already being taken forward and workers are already onsite.

This report confirms the Council's commitment to the 2013 community objectives for development on Somerleyton road and directs the Council's wholly-owned housing company, Homes for Lambeth, to take forward the delivery of blocks C, D & F of the Somerleyton Road project. This will see the delivery of the housing-led element of the scheme, which secured planning permission in 2015 for over 300 homes, of which 50% would be affordable housing, including much needed new social housing for local families. Since 2013 the demand for genuinely-affordable social housing has continued to grow, and the Council recognises the need to bring these homes forward as soon as possible.

The Council will ensure community involvement and representation in the project through the establishment of a new stakeholder steering group, bringing together local residents and community groups, including Brixton Green, who have been enthusiastic partners with the Council since the project's inception.

The purpose of this report is to:

- a) provide context for the Somerleyton Road project and summarise the work undertaken since 2013 to develop the masterplan, secure a planning consent and identify and test a number of options to deliver the scheme;

- b) set out the Council's vision for Somerleyton Road, including its plan for long term Community Stewardship; and,
- c) recommend and seek approval for a delivery strategy for Blocks C, D and F.

Finance summary

This report relates to the recommended delivery route for Blocks C, D and F of the Somerleyton Road site. Delivery via Homes for Lambeth (the Council's 100% owned housing company) will help the Council maximise the level of affordable housing possible by ensuring that available grant funding can be utilised within the required timescales and mean that the Council's cost to date in developing the project can be largely reimbursed.

Recommendations

- 1) To confirm the 2013 community objectives for the Somerleyton Road development.
- 2) To establish a community steering group, bringing together interested stakeholders and community representatives, to oversee the Somerleyton Road project and to co-create the long-term Community Stewardship Body.
- 3) To direct Homes for Lambeth, to develop block C, D and F.
- 4) To delegate further decisions on the delivery management plan to the Cabinet Member for Planning, Investment & New Homes.

1. CONTEXT

- 1.1 Lambeth, like all London boroughs, is facing a major housing crisis. In Lambeth almost 29,000 people are on the waiting list for a council home; the number of homeless families in temporary accommodation has risen sharply to over 2,100 (April 2018), the vast majority of which are families with children. Every year between 3000 and 4000 people apply to be on the Council's housing waiting list equating to 60 to 80 households each week. Last year the Council was able to provide housing for fewer than 1,000 households, around 20 households per week including internal transfers from one council property to another. In the context of these challenges, the Council is seeking to improve both the quality and quantity of the housing in Lambeth with a commitment to delivery 1,000 homes at council rent. The Council has a London Plan commitment to work to deliver an annual target of 1,559 new homes in the borough between 2015 and 2025. This Scheme will make a contribution to meeting this target.
- 1.2 On Somerleyton Road, the Council has made a positive intervention to use the land we own to provide new homes, work space, cultural facilities and community space all co-designed with local people.
- 1.3 In 2013 the Council set out its ambitious vision for Somerleyton Road, following extensive consultation and coproduction with local people. Through this positive local engagement activity with Brixton Green and others in the local community the Council identified an outstanding opportunity for local people and local groups to work alongside the Council to bring about transformational change to this exciting part of Brixton. It also identified a major aspiration for the community to take on a long term stewardship role in the new development.
- 1.4 The original objectives of the project, as set out in a report to Cabinet in November 2013 are:
- bring Ovalhouse Theatre to Brixton;
 - maximise the amount of housing which is affordable for local people;
 - collaborative working with the local community and securing a long term stewardship role
 - build high quality, sustainable buildings and support sustainable communities;
 - employment, training and community uses shaped by local residents;
 - improving community safety;
 - retain the heritage assets (i.e. the mural and the façade of Carlton Mansions);
 - deliver the project in a timely fashion;
 - deliver a financially viable scheme which represents value for money for the Council and which repays in full the up-front capital investment; and,
 - build capacity to bring forward other development schemes within the Council.
- 1.5 Networks, the principle architects on the scheme, won the New London Architecture (NLA) award for best Housing Masterplan for the Somerleyton Road scheme in 2016 and the Chartered Institute of Building Engineers (CABE) acknowledged the scheme saying *"the proposed layout, design principles, and architectural design of the building blocks have the makings of an attractive neighbourhood and the potential to transform this part of Brixton"*.
- 1.6 The current planning consent for the scheme comprises 6 blocks, A-F:
- A. Carlton Mansions – 665sqm creative work space
 - B. The new Ovalhouse Theatre and 1300sqm commercial work space on floors 3 and 4
 - C. 127 homes and ground floor commercial space
 - D. 65 Extra Care homes

- E. 16-22 Somerleyton Road – not currently in the Council's ownership. The landowner has a planning consent for 70 new homes, nursery and community space that complies with the Masterplan and the Council's vision for the scheme
 - F. 42 new homes and retail space
- 1.7 Since 2014 a number of options have been developed and tested to determine feasibility, legal/commercial compliance, financial and operational viability, best consideration for the Council and public interest, as well as delivery of the project objectives and long-term community stewardship.
- 1.8 The Council recognised from the start that there was an opportunity to do things differently at Somerleyton Road and to deliver a flagship project in cooperation with the local community. The project was pursued from an early stage in partnership with Ovalhouse, and with Brixton Green, a mutual benefit society based in the local area. The Council has been working closely with the local community and with Brixton Green on developing the community-led approach to the project including, for example, supporting and facilitating the development of a number of proposals for community-led housing models.
- 1.9 The Council has provided resources, skills and expertise from within the Council and also from construction, housing development, legal and financial sectors, with the purpose of achieving a viable and sustainable community-led scheme for Somerleyton Road.
- 1.10 Over the past two years Brixton Green have applied their skills and expertise to develop a community-led housing model for Somerleyton Road. Brixton Green's proposal centres on the ownership of the land and developing an operating structure that would create a Trust model to deliver the long-term stewardship role for the residential elements of the project. The Council has supported and facilitated this work in a number of ways and commissioned its legal and commercial advisers to undertake a thorough review of the proposals put forward by Brixton Green. The Council's expert legal and commercial advisers found that the proposed operating structure and business plan were not compliant with regulations on State aid and despite a huge amount of energy to resolve these issues, the Council has been unable to move forward and enable the original vision for Somerleyton Road to be realised. An independent analysis of the latest Brixton Green proposal, carried out by Pinsent Masons, concluded that it did not take the Council any further forward in developing a working structure for the Somerleyton Road Project with Brixton Green.
- 1.11 Brixton Green has, throughout, been a willing and enthusiastic partner that has shared the Council's determination to transform this area for the benefit of the local community.
- 1.12 The establishment of the community-led steering group in 2019 will provide a foundation for which the Council and a wide range of community groups can explore the future possibilities including the mix of housing, as well as the vision of long-term community stewardship.
- 1.13 Since the start of the Somerleyton Road project the Council has now established its own 100% council-owned housing company, Homes for Lambeth, which can build these homes for local people while adhering to the community vision and goals set out in 2013.
- 1.14 In April 2017 it was agreed to progress with Phase 1 - Blocks A&B to enable Ovalhouse Theatre to secure the £3m Arts Council England grant for the Theatre and in September 2017 the former Deputy

Leader (Investment and Partnerships) approved the appointment of Galliford Try to deliver the pre-construction stage (PCSA) for Blocks A&B.

- 1.15 The new theatre provision will go above and beyond Ovalhouse's existing site by delivering two theatre spaces, seven rehearsal spaces as well as over 1,300 square meters of commercial work space on the two floors above the theatre and 665 square meters of creative workspace in Carlton Mansions.
- 1.16 The relocation of Ovalhouse, which has been based in Lambeth for several decades, is a key element of the cultural investment being brought to the area by this comprehensive regeneration of Somerleyton Road. Work on the Theatre and Carlton Mansions started on site in December 2018 and is expected to complete in autumn 2020.

2. PROPOSAL AND REASONS

2.1 It is proposed that:

2.1.1 The Council confirms the original community objectives for the Somerleyton Road development, as set out in the November 2013 Cabinet report and establishes a community steering group which will oversee the Somerleyton Road project and co-create the long-term Community Stewardship Body.

2.1.2 The Council directs its 100% owned housing company, Homes for Lambeth, to develop block C, D and F and to delegate further decisions on the scheme's delivery management plan to the Cabinet Member for Planning, Investment & New Homes.

2.2 In 2017 the Council established Homes for Lambeth to build and manage more and better homes, to help reduce the substantial pressures on the Council's housing waiting list and to improve the lives of those residents currently living in poor quality and overcrowded homes.

2.3 The Council's commitment is to meet the community's vision for Somerleyton Road with a truly mixed development to support and respond to community life along Somerleyton Road and with community involvement at the heart of the project.

2.4 The Council will seek to establish a community steering group, which reaches out to people within the local community, particularly residents on local estates, Fitch Court and Brixton Green. The aim of this group will be to set up a Community Stewardship Body which will be up and running by the time the first residents move in, and will involve wide-ranging representation including the local community, residents and non-residential occupiers from the new development.

2.5 The Council remains committed to the local stakeholders who have been involved in the development of the scheme from the early stages and have participated in the design of the housing and community spaces. They have also influenced the development of the masterplan and the planning application, both of which reflect local aspirations.

2.6 The Block Workout Foundation currently offer exercise sessions, mentoring and training/entry to employment opportunities for young people at 6 Somerleyton Road. A new street gym facility has been designed into the scheme and commitments have been made by the Council to provide meanwhile accommodation for the street gym during construction.

- 2.7 The residents of Fitch Court, Effra Road (a sheltered housing scheme managed by the Council) were closely involved in the design of older people's housing for Block D. Around 26 residents have been planning to move to new accommodation on Somerleyton Road when the scheme is complete. The Fitch Court residents have maintained their support for the scheme and desire to see it happen as quickly as possible and the Council is fully committed to providing them new accommodation on Somerleyton Road.
- 2.8 Homes for Lambeth, the Council's 100% council-owned housing company, provides an appropriate vehicle to deliver the Somerleyton Road project as it:
- a) ensures on-going democratic oversight for the development;
 - b) enables more genuinely affordable homes than would be achieved by partnering with other developers or housing associations to be built; the surpluses that would otherwise be extracted by the private sector can be recycled by Homes for Lambeth back into delivering more affordable homes; and,
 - c) enables the land to be maintained in effective public ownership.

All of which remain core and original ambitions for the Somerleyton Road development.

- 2.9 The current planning consent for the Somerleyton Road scheme includes provision for 304 homes, of which 50% are genuinely affordable, Extra Care homes, a nursery, a street gym, commercial space and retail space.
- 2.10 The Council is currently reviewing its requirement for Extra Care homes in Lambeth as demand for this type of housing has changed in the time since the project started. Consideration is being given to options for Block D and the provision of Older Peoples Housing to ensure that the guarantee of new homes for the current residents of Fitch Court is met.
- 2.11 Taking forward the next phase of the Somerleyton Road project aligns with the Council's Brixton Central Strategy for securing the redevelopment of key sites within the town centre.

3 FINANCE

- 3.1 The recommended delivery route would entail disposal of the site to Homes for Lambeth based on an agreed valuation that would be linked to the Planning permission obtained. Clearly any capital receipt obtained will be reduced by the level of affordable housing proposed but could be used to offset the Council's costs to date.
- 3.2 The costs of the wider Somerleyton Road project are around £8.5m to date excluding land assembly costs. The Council would expect to be reimbursed for most of these costs that relate to working up detailed schemes for development as part of the income to be derived from commercial units on Blocks A and B and from the land value for Blocks C, D and F.
- 3.3 Future costs for Blocks A and B are allowed for in the wider budget agreed for development of the Ovalhouse theatre. As the recommendation is for disposal to Homes for Lambeth then future costs for Blocks C, D and F would transfer to Homes for Lambeth, aside from any costs related to the management of the contractual relationship with Homes for Lambeth, which are allowed for in existing budgets.

- 3.4 If a disposal to Homes for Lambeth does not take place then further budget will need to be identified if other development options are to be explored, for example to cover the costs of running a procurement process or continuing to obtain ongoing Legal and Commercial advise.
- 3.5 Planning permission for the scheme was granted in 2015 for 50% affordable housing. The Council would expect Homes for Lambeth to review the existing proposals and changes to land assembly since the 2015 permission while seeking to continue to maximise affordable housing.
- 3.6 It is important to note that grant funding and the use of right to buy receipts are both time-limited and linked to a council/Homes for Lambeth led development and these funds may not be available to support the scheme if different delivery options are pursued or if the scheme is further delayed. This would in turn impact on viability and reduce the number of units of affordable housing that the scheme could deliver.

4 LEGAL AND DEMOCRACY

- 4.1 Section 1 of the Localism Act 2011 enables the Council to do anything individuals generally may do.
- 4.2 Section 9 of the Housing Act 1985 empowers the Council to provide housing accommodation on land acquired by them under part II of that Act. Further this power may equally be exercised in relation to land acquired for the purpose:
- (a) of disposing of houses provided, or to be provided, on the land; or,
 - (b) of disposing of the land to a person who intends to provide housing accommodation on it.
- 4.3 In the 1999 judgment of Teckal (C-107/98) the ECJ established an exemption from public procurement for the award of contracts by a public authority to a separate entity provided certain requirements were met. Those requirements were that:
- 4.3.1. The contracting authority must exercise sufficient control over the separate entity (with the test applied being that the control should be similar to that which the contracting authority exercises over its own departments); and,
 - 4.3.2. The separate legal entity must carry out the essential part of its activities for its owner authority/ies ("the essential activity test").
- 4.4 This exemption, widely known as the "Teckal exemption", was formally codified into the 2014 EU Procurement Directive (Article 12), and therefore our Public Contracts Regulations 2015 (Regulation 12), which also clarified that the requirement that the separate entity carried out the essential part of its activities for the owner authority meant that at least 80% of its activity must be for that authority.
- 4.5 Section 149 of the Equality Act 2010 'the public sector equality duty' requires public authorities to have due regard to the need to:
- a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under that act;

- b) advance equality of opportunity between persons who share a relevant protected characteristic (i.e. race, sex, disability, age, sexual orientation, religion or belief, pregnancy or maternity, marriage or civil partnership and gender reassignment) and those who do not share it; and,
 - c) foster good relations between those who share a protected characteristic and those who do not share it, which involves having due regard, in particular, to the need to:
 - (i) tackle prejudice; and,
 - (ii) promote understanding.
- 4.6 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it, including, in particular, steps to take account of disabled persons' disabilities; and,
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 4.7 Compliance with the duties in section 149 of the Act may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under the Act.
- 4.8 The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken - that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.

5 CONSULTATION AND CO-PRODUCTION

- 5.1 Local residents and ward councillors have been consulted on this scheme and will continue to be engaged during the construction stage. Stakeholder engagement was a criteria measured in the procurement process, with contractors asked to set out their methodologies for good engagement.

6 RISK MANAGEMENT

6.1

Risk	Risk Rating	Countermeasure
Further delays to the project could result in loss of GLA and HIF grant funding up to a value of £17m which would significantly impact the financial viability of the scheme and the ability to maximise the number of genuinely affordable homes	High	Homes for Lambeth is established with procurement processes and mechanisms in place to enable the project to move ahead quickly following a cabinet decision. Homes for Lambeth provides an appropriate vehicle to deliver the scheme and one via which the grant funding can be applied to the scheme
Further delays to the scheme could result in significant abortive and unrecoverable costs for the Council	High	The Council has tested the financial viability of a council-led scheme via Homes for Lambeth and assuming no further delays are incurred,

and/or significantly impact the financial viability of the scheme. If the project remains effectively on hold, project costs will continue to be incurred whilst construction and development costs continue to increase.		the investment in the project to date can be recovered whilst also maximising the number of homes for the scheme.
Further delays to the scheme could have further reputational risk for the Council. A number of local stakeholders have been actively involved in the scheme for several years, as well as strategic stakeholders such as the GLA and MHCLG.	High	Homes for Lambeth is established with procurement processes and mechanisms in place to enable the project to move ahead quickly following a cabinet decision. The appropriate governance mechanisms will also be in place to ensure the Council's plan for long-term community stewardship and ongoing community engagement is enabled and delivered.
Further delays to the scheme could result in local plan targets for housing not being fully met	Medium	Homes for Lambeth is established with procurement processes and mechanisms in place to enable the project to move ahead quickly following a cabinet decision.

7 EQUALITIES IMPACT ASSESSMENT

- 7.1 A full EIA has been carried out for the Somerleyton Road scheme and the EIA has informed the development of this project. This demonstrates many benefits to community and consequent issues of equality including a new cultural facility that will bring theatre performances and activities for all ages, along with training and community spaces.
- 7.2 The existing EIA and an update on the project was taken to the EIA panel on 3 September 2018. A full analysis of the existing assessment, as a result of the review described in 6.2 will be taken back to the EIA panel in 2019.

8 COMMUNITY SAFETY

- 8.1 Community safety is a key issue for the Somerleyton Road project and is one of the main drivers for change.
- 8.2 Crime and anti-social hotspots have been identified and a joint approach between local stakeholders, the Council, and the borough's Community Safety officer have resulted in a number of mitigation measures being included in the proposals.
- 8.3 The project will continue to assess how development along Somerleyton Road could continue to improve community safety in this part of Brixton whilst also working closely with any future development partner over site safety during the construction period

9 ORGANISATIONAL IMPLICATIONS

Environmental

9.1 The works for this project include the removal of potentially hazardous material from the existing building. The scope of works includes for high standards of sustainability, and contractors were tested on ability to achieve this as part of the evaluation process.

Staffing and accommodation

9.2 There are no direct staffing implications

Procurement

9.3 As set out in Section 4 of this report, there are no procurement implications for the recommendations in this report.

Audit trail				
Consultation				
Name/Position	Lambeth cluster/division or partner	Date Sent	Date Received	Comments in para:
Councillor Lib Peck	Leader of the Council	17/12/2018	02/01/2019	
Councillor Matthew Bennett	Cabinet Member for Planning, Investment & New Homes	17/12/2018	02/01/2019	
Sue Foster Strategic Director for Neighbourhoods and Growth	Neighbourhoods and Growth	21/11/2018	21/11/2018	
Rachel Sharpe, Director for Strategic Programmes	Neighbourhoods and Growth	21/11/2018	21/11/2018	
Gregory Carson Legal Services	Corporate Resources	21/11/2018	21/11/2018	
Matthew Gaynor Finance	Corporate Resources	21/11/2018	21/11/2018	

Report history	
Original discussion with Cabinet Member	26/11/2018
Report deadline	02/01/2019
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	Yes
Date first appeared on forward plan	4.01.19
Key decision reasons	Community Impact and Financial
Background information	none
Appendices	No

