

## **Cabinet Member Delegated Decision 25 April 2019**

**Report title:** Estate Regeneration – Early Buy-back Funding

**Wards:** Clapham Town, Stockwell, Princes, Larkhall, Gipsy Hill and Tulse Hill

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

**Report Authorised by:** Emma Peters: Interim Strategic Director for Sustainable Growth and Opportunity

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### **Report summary**

This report seeks to secure further funding through borrowing to continue the early buy-back programme, which is required as part of the estate regeneration programme. Short-term borrowing is required to support the acquisition of homeowner properties on regeneration estates in the lead up to the redevelopment of each estate.

A strategy has been developed to use Homes for Lambeth to generate an income stream to cover the interest payments for this borrowing. Properties will be rented on the open market until they are required for demolition as part of the redevelopment of an estate. Subsequently, when a phase of redevelopment of an estate is taken forward, these properties will be acquired by Homes for Lambeth, which will enable the council to pay back the principal debt associated with the original purchase.

The funding request in this report will contribute towards the estate regeneration buy-back programme, but does not represent the full extent of funding resource that will in due course be required to fulfil the council's commitments in the Key Guarantees. Further funding will be requested in due course. The process of buying back properties will continue to be managed so as to make sure that those seeking a purchase of their property genuinely wish to sell their property imminently, in order not to waste resources and time progressing buy-backs that do not proceed.

The Housing Zone Funding will continue to be used for the estates within the Lambeth Housing Zone (South Lambeth and Westbury). In advance of making a compulsory purchase order for these estates, in order to enable development to progress, the Council will be operating more proactively to seek to acquire the properties of non-resident homeowners and commercial property owners.

### **Finance summary**

This request is for an additional £10m of funding for purchasing properties on Regeneration estates, as the previously allocated funding has largely been exhausted. The costs would be expected to be repaid, once development on the estate commences.

### **Recommendations**

1. To allocate £10m of funding, supported by borrowing, to fund the pipeline of early buy-backs as part of the estate regeneration programme.
2. To continue to allocate Housing Zone Grant monies for residential and commercial acquisitions to support regeneration of estates within the Lambeth Housing Zone.

## **1 Context**

- 1.1 The Council has committed to progressing an estate regeneration programme to deliver new housing for Lambeth and to improve the quality of housing for existing residents. Decisions have been taken to redevelop six estates. This programme supports a key Community Outcome for Lambeth Council - that Lambeth residents have access to better quality homes.
- 1.2 This report focusses on funding to support this regeneration programme.
- 1.3 Funding was originally allocated to the estate regeneration programme in April 2014. £25m of Capital Receipts was provided as investment to support a broad programme, both to improve the housing conditions for residents in existing council stock and provide new affordable homes (including new homes at council rent levels). This funding pipeline is being used to progress the estate regeneration and housing development programmes during design and planning, taking forward a selection of projects to secure planning consents for redevelopment. It is intended that after planning consent is secured, those schemes will be transferred over to Homes for Lambeth to progress.
- 1.4 In addition to the above, £19.7m was committed in December 2017 by means of PWLB borrowing to support the acquisition of homeowner properties on six estates, for which decisions have been taken to progress redevelopment. The £19.7m was explicitly identified as an initial tranche of funding, where it was recognised that the funding required to cover acquisition of homeowner properties would in due course be considerably more. In September 2018, a further £10m was allocated to these funds.
- 1.5 The Council has also secured £10m Housing Zone Grant from the GLA. This represents an interest free loan from the GLA to support commercial and residential property acquisitions in advance of redevelopment of those estates within the Housing Zone Grant area (Knight's Walk, South Lambeth and Westbury). Claims submitted total £2.9m, leaving a balance of £7.1m remaining Housing Zone Grant.
- 1.6 It is now necessary to further extend the funding to support the buy-back programme.

### **Early Buy Back Strategy**

- 1.7 Under the Cabinet Authorisations for the Key Guarantees, the Council will acquire homeowner properties on estate regeneration estates in advance of them being required for demolition. In many instances, such acquisitions will be many years in advance of them being required for demolition. Initially these properties will be acquired on an ad-hoc basis, as and when homeowners wish to sell their property to the Council; as projects progress through planning, a more concerted effort will be made to seek to acquire the properties of non-residents.
- 1.8 Going forwards, it is proposed that the funding of early buy backs will be secured through short-term borrowing by the council on the basis of 7-year funding from Public Works Loan Board. Given the timespan between acquisition of properties and demolition for redevelopment purposes, a strategy is being implemented whereby these properties are let out at open market rents to generate an income stream. Given that the Council cannot rent out such properties directly, these will be leased on a commercial basis to HfL Build Ltd; the properties will in turn be let out on assured short-hold tenancies. This income stream will contribute towards paying interest costs for the Council's short-term borrowing from the Public Works Loan Board.

### **Early Buy Back Programme**

- 1.9 The estate regeneration programme is looking to regenerate six estates.
  - Central Hill

- Cressingham Gardens
- Fenwick
- Knight's Walk
- South Lambeth
- Westbury

1.10 Across the six estates there are almost 1,400 homes that require replacement. Of these around one third are leasehold properties. This means that there will be over 450 properties, on which the Council's offer for purchase exists. These figures are derived from the table below:

<b>TABLE 1</b>		
<b>Number of properties on which initial demolition notices are likely to be served</b>	<b>Total Properties</b>	<b>Homeowner Properties</b>
Central Hill	460	140
Cressingham Gardens	306	96
Fenwick	408	144
Knight's Walk	17	1
South Lambeth	101	39
Westbury	82	34
<b>Total</b>	<b>1,374</b>	<b>454</b>

1.11 In theory, if every homeowner (resident and non-resident) were to seek to sell their property to the council under the Key Guarantees, then the total liability could be circa £200m (at an average acquisition cost of about £452k (including all Key Guarantee costs)). However, in practice we expect most resident homeowners to wish to remain living on their estate and take up the shared ownership offer under the Key Guarantees.

1.12 On the Myatt's Fields North development circa 20% of resident leaseholders chose to sell their properties to the Council; 80% of resident leaseholders chose an equity swap. In the case of Myatt's Fields, the offer made by Regenter was more favourable than that which the Council can now make: leaseholders were offered 100% ownership of new properties regardless of the jump in property value from old to new. The 20% may therefore be optimistic; but it represents a reasonable estimate for the time being.

1.13 Over the course of any estate regeneration project, all non-resident homeowner properties will need to be acquired. Given that these properties represent an investment, in a constrained/rising housing market a very significant proportion of these non-resident homeowners will likely hold out until they are required to sell to the council through a compulsory purchase order.

1.14 Table 2 provides a more detailed assessment of the numbers of homeowners.

<b>TABLE 2</b>					
<b>Estate</b>	<b>Total Homeowner Properties</b>	<b>Non-resident Homeowners</b>	<b>20% of Resident Homeowners</b>	<b>Purchases to-date</b>	<b>Pipeline of homeowners interested in being purchased early</b>
Central Hill	140	37	21	15	84
Cressingham Gdns	96	29	14	19	21

Fenwick	144	50	19	11	52
Knight's Walk	1	1	0	1 (all acquired)	0
South Lambeth	39	18	5	2	10
Westbury	34	12	5	7	12
<b>Total</b>	<b>454</b>	<b>147</b>	<b>64</b>	<b>55</b>	<b>179</b>

1.15 The total number of properties that we anticipate having to buy back as part of the estate regeneration programme is around 211 (=147+64). At an average acquisition cost of £452k, this equates to £94.3m. If more than 20% of resident homeowners seek to leave their estates across the programme, then this sum will clearly be higher.

1.16 If acquisitions were to progress with immediate effect for all homeowners, who have so far expressed an interest in being purchased, then the total current liability for the 179 properties is £81m. However, from experience to-date, it is only a small fraction of those who have completed expressions of interest who genuinely wish to proceed with a sale imminently. Most homeowners have simply completed the expression of interest in order to register that they may consider to sell their property in due course and so as not to be left out should there be limitations on funds.

1.17 The challenge faced by the Council in progressing a buy-back programme of this nature is to ensure that funds and resources are expended where required and not embark upon the conveyancing process only to find it stalls and purchases do not proceed. This wastes Council funds and diverts resources from those who wish to sell their home imminently. Excepting where the Council needs to begin to be proactive in acquiring properties in advance of a compulsory purchase order, then the programme needs to continue to be carefully managed to ensure that those seeking to sell their property intend to see the process through.

1.18 From experience there are particular points in an estate regeneration project when most homeowner purchases will take place:

- immediately after initial decision to redevelop an estate (this has already been seen for Cressingham Gardens, where an initial flourish is now reducing to a trickle);
- after a decision to progress a compulsory purchase order (regardless of whether this is ultimately required) and then in the lead up to a compulsory purchase order inquiry; and
- by means of compulsory acquisition.

**2 Proposal and Reasons**

2.1 To allocate funding of £10m, supported through borrowing, for the early buy-back programme.

2.2 This funding is required to support the pipeline of homeowners who are looking to have their homes purchased under the Key Guarantees and would enable the council to continue purchasing properties where requested by homeowners.

**3 Finance**

3.1 The total cost of buybacks across the whole programme of 211 units is estimated at around £95m. Clearly this number has the potential to vary significantly, depending on the take up of the shared ownership offer.

TABLE 3	Completions		Spend to Date	
	LBL Approved Funding	HZL	LBL Approved Funding	HZL
			£m	£m
Central Hill	15		7.20	
Cressingham Gardens	19		8.06	
Fenwick	11		5.05	
Knight's Walk		1		0.67
South Lambeth		2		0.53
Westbury		7		3.38
	<b>45</b>	<b>10</b>	<b>20.32</b>	<b>4.58</b>

**TABLE 4 Funding**

	Allocation £m	Spend to date £m	Balance £m
LBL Approved Funding	29.74	20.32	9.42
HZL	10.00	4.58	5.42
<b>TOTAL</b>	<b>39.74</b>	<b>24.89</b>	<b>14.85</b>

- 3.2 The previous funding allocated of £29.74m has been used to purchase units located in Central Hill, Cressingham Gardens and Fenwick. Spend to date on 45 completed units is £20.32m. A further 10 units are in progress to complete by the end of the financial year. This will increase the spend to c£26m, leaving funds in the region of £4m, so it is appropriate to allocate another tranche of funding for these 3 estates, which will allow the Council to continue to purchase properties where residents have expressed an interest in selling.
- 3.3 Purchase of units on South Lambeth and Westbury are covered by Housing Zone Funding. The cabinet agreed a resolution to make a Compulsory Purchase Order for these two estates in December 2018 and the full cost of achieving vacant possession for these sites was addressed at that point.
- 3.4 The Council will need to fund these purchases from prudential borrowing. The costs of funding this additional borrowing until development commences can be offset by either using the properties as temporary accommodation and thus making a saving on renting properties from the private sector or by renting them out on the private market. If the latter option is used, then it is proposed that Homes for Lambeth will manage the homes on behalf of the Council.
- 3.5 Once development commences it would be expected that the Council investment is repaid at the point Homes for Lambeth acquire the relevant land from the Council.

#### **4 Legal and Democracy**

- 4.1 Section 1 of the Local Government Act 2003 gives the council the power to borrow for any purposes relevant to its functions under any enactment.
- 4.2 Section 3 of the Act requires the Council to keep under review how much money it can afford to borrow and a local authority is not permitted to borrow money if it would exceed this limit or any limit imposed on it by the Secretary of State pursuant to section 4 of that Act.

- 4.3 Section 120 of the Local Government Act 1972 permits the Council to acquire land by agreement for the purposes of any of their functions under that or any other enactment or for the benefit, improvement or development of its area.
- 4.4 Section 227 of the Town and Country Planning Act 1990 permits the council to acquire land by agreement where it considers the acquisition will facilitate the carrying out of development, re-development or improvement in relation to the land.
- 4.5 Section 9 of the Housing Act 1985 empowers the Council to provide housing accommodation by acquiring houses. These powers may be exercised in relation to land acquired for the purpose of disposing of houses provided, or to be provided, on the land, or of disposing of the land to a person who intends to provide housing accommodation on it.
- 4.6 Section 17 of the Housing Act 1985 empowers the Council to acquire land as a site for erection of houses or to acquire houses, or buildings which may be made suitable as houses, together with any land occupied with the land or buildings. The power conferred this section includes power to acquire land for the purpose of disposing of houses provided, or to be provided, on the land or of disposing of the land to a person who intends to provide housing accommodation on it.
- 4.7 Section 111 of the Local Government Act 1972 enables the Council to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any other of its functions, whether or not involving expenditure, borrowing or lending money, or the acquisition or disposal of any rights or property.
- 4.8 Section 1(1) of the Localism Act 2011 introduced the “general power of competence” for local authorities, defined as “the power to do anything that individuals generally may do” and which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area. The generality of the power conferred by subsection (1) is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power. In exercising this power, if the council does anything for a commercial purpose it is required to do so through a company.
- 4.9 Section 79 to 81 of the Housing Act 1985 sets out the requirements for a tenancy to a Secure Tenancy. These are that the landlord is a local authority and the tenant occupies the dwelling as their only or principal home. This regime is subject to the exceptions set out in Schedule 1 of that Act. Paragraph 3 of Schedule 1 of the Act provides that where dwelling-houses have been acquired for development and the dwelling is used by the landlord, pending the development of the land, as temporary housing accommodation, the tenancy will not be a secure tenancy.
- 4.10 Section 123 of the Local Government Act 1972 enables the council to dispose of land in any manner it wishes, save that it requires Secretary of State consent if it proposes to dispose of land at less than the best consideration reasonably obtainable, except where it is by a lease of 7 years or less. The Secretary of State has issued general consents under section 32 of the Housing Act 1985 and Section 25 of the Local Government Act 1988 that provide consent for the disposal of houses and land whether it is held in the Housing Revenue Account or the General Fund.
- 4.11 Section 149 of the Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to:
- eliminate discrimination, harassment, victimisation and other form of conduct prohibited under the act; and,
  - to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic (age, disability, gender re-assignment, pregnancy and

maternity, race, religion and belief, sex, and sexual orientation) and persons who do not share it.

4.12 Having regard to the need to advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share it involves having due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- take steps to meet the needs of the persons who share that characteristic that are different from the needs of persons who do not share it; and,
- encourage persons of the relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

4.13 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.

4.14 When Members of the Cabinet consider whether to adopt the recommendations of this report, they will be exercising a discretion within the constraints of the duties referred to above and should therefore have in mind the following principles of administrative law:-

- a decision must be within the Council's powers
- all relevant information and consideration, including the Council's fiduciary duty to the Council Tax payer, must be taken into account
- all irrelevant considerations, including unauthorised purposes, must be ignored

4.15 This proposed key decision was entered in the Forward Plan on 18<sup>th</sup> March 2019 and the necessary 28 clear days' notice has been given. In addition, the Council's Constitution requires the report to be published on the website for five clear days before the proposed decision is approved by the Cabinet Member. Any representations received during this period must be considered by the decision-maker before the decision is taken. A further period of five clear days - the call-in period – must then elapse before the decision is enacted. If the decision is called-in during this period, it cannot be enacted until the call-in has been considered and resolved.

## **5 Consultation and co-production**

5.1 There has been increasing pressure from homeowners on estate regeneration projects for the Council to make available funding to enable on demand acquisition of homes. This understanding has not been garnered from a formal consultation process, but arises from the on-going contact with residents on regeneration estates, in particular during Resident Engagement Panel meetings.

5.2 This view was documented formally during historic consultation that fed into the Council decision to establish the Key Guarantees.

## **6 Risk management**

6.1 The following risks have been identified.

<b>Risk</b>	<b>Mitigation</b>
Income not guaranteed; void and rent risks retained	Target units for market rent in areas of greatest potential rent and local demand to reduce void times – using more units from other areas of the borough as TA
Poor property condition leading to unexpected void costs	Consideration should be given to reducing valuation or offer to leaseholder if the property is in very poor condition
Insufficient market interest to manage the properties	Pre-market testing to advertise and sign-post opportunity. Public advertisement of opportunity and active contact of a number of local SME letting agents.
Risk of reputational damage to HfL or LB Lambeth if the managing/letting agent provides a poor service	Mitigated by retaining some weighting for quality in the procurement process, but largely mitigated by letting contract for short terms (1 to 2 years).

## **7 Equalities impact assessment**

- 7.1 Equalities impact assessments have been undertaken in the course of deciding whether to proceed with the redevelopment of an estate. A strategy was outlined in the Cabinet Decision associated with the Key Guarantees (March 2017) for addressing equalities matters on regeneration estates during the course of redevelopment of an estate.
- 7.2 This decision will enable all homeowners, who wish to move away from their estate prior to redevelopment of that estate to do so. It will enable homeowners to decide in their own time during the earlier stages of redevelopment of an estate, whether and when they wish to sell their home to the Council.

## **8 Community safety**

- 8.1 It is desirable not to leave void properties empty on estate regeneration estates. This increases the risk of crime by reducing activity and passive surveillance. The approach proposed here would ensure that estate regeneration estates remain occupied and used all the way through the regeneration process and minimise any time period when estates are under-occupied.

## **9 Organisational implications**

### **9.1 Environmental**

N/A.

### **9.2 Staffing and accommodation**

The Council and HFL will be responsible for managing the buy-backs and private lettings.

### **9.3 Procurement**

N/A

### **9.4 Health**

This should reduce any stress experienced by homeowners on regeneration estates by putting them in control of the timing of selling their home to the Council in the period before redevelopment takes place.

## 10 Timetable for implementation

10.1 Purchase of properties is on-going. This will enable continuation of an existing activity.

<b>Audit Trail</b>				
<b>Consultation</b>				
<b>Name/Position</b>	<b>Lambeth directorate / department or partner</b>	<b>Date Sent</b>	<b>Date Received</b>	<b>Comments in paragraph:</b>
Councillor Matthew Bennett	Cabinet Member for Planning, Regeneration and New Homes	12.04.19	12.04.19	
Emma Peters	Interim Strategic Director: Sustainable Growth and Opportunity	09.04.19	12.04.19	
Sandra Roebuck	Director: Development, Planning & Housing Growth		04.19	
Matthew Gaynor, Finance	Corporate Resources	17.01.19	20.01.19	3
Raman Dale, Legal Services	Corporate Resources	19.02.19	20.02.19	4
Maria Burton, Democratic Services	Legal & Governance	20.02.19	27.02.19	4

<b>Report History</b>	
<b>Original discussion with Cabinet Member</b>	25.06.18
<b>Part II Exempt from Disclosure/confidential accompanying report?</b>	No
<b>Key decision report</b>	Yes
<b>Date first appeared on forward plan</b>	18.03.19
<b>Key decision reasons</b>	Expenditure, income or savings in excess of £500,000 Meets community impact test
<b>Background information</b>	<a href="#">Cabinet, 28 April 2014, item 7: Investing in New Housing at Council Rent Levels</a> <a href="#">Cabinet, 23 March 2017, item 3: Improving the Key Guarantees</a> <a href="#">CMDRR 18 December 2017: Estate Regeneration Early Buy Back Funding</a> <a href="#">Cabinet, 17 December 2018, items 7 and 8: Investing in better neighbourhoods and building the homes we need to house the people of - Compulsory Purchase Order – South Lambeth Estate and Westbury Estate</a> <a href="#">CMDRR, 17 September 2018: Early Buy Back Funding</a>
<b>Appendices</b>	None

**I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board, and taken account of their advice and comments in completing the report for approval:**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Post:** Emma Peters, Strategic Director of Sustainable Growth and Opportunity

**I confirm I have consulted the relevant Cabinet Members, including the Leader of the Council (if required), and approve the above recommendations:**

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Post:** Councillor Matthew Bennett, Cabinet Member for Planning, Regeneration and New Homes

**Any declarations of interest (or exemptions granted):**

**Any conflicts of interest:**

**Any dispensations:**